SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 32

JAMES R. HOFFA, PETITIONER,

vs.

UNITED STATES.

No. 33

THOMAS EWING PARKS, PETITIONER,

vs.

UNITED STATES.

No. 34

LARRY CAMPBELL, PETITIONER,

vs.

UNITED STATES.

No. 35

EWING KING, PETITIONER,

vs.

UNITED STATES.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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[fol. 1]

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

Criminal No. 13,383

UNITED STATES OF AMERICA, Plaintiff,

v.

JAMES R. HOFFA, LAWRENCE W. MEDLIN, LARRY CAMPBELL, THOMAS EWING PARKS, ALLEN DORFMAN, NICHOLAS J. TWEEL, EWING KING, Defendants.

INDICTMENT—Filed May 9, 1963

Count One

The Grand Jury charges:

1. That from on or about the 1st day of October 1962, up to and including the date of filing this indictment, in the Middle District of Tennessee, Nashville Division, and elsewhere, James R. Hoffa, the defendant herein, did unlawfully, wilfully and knowingly combine, conspire, confederate and agree with Lawrence W. Medlin, Larry Campbell, Thomas Ewing Parks, Allen Dorfman, Nicholas J. Tweel and Ewing King, named as co-conspirators but not defendants herein, and with other persons to the Grand Jury unknown, to commit offenses against the United States, to wit: to corruptly endeavor to influence, intimidate, and impede petit jurors in the trial of *United States* v. *James R. Hoffa and Commercial Carriers, Inc.* (Criminal No. 13,241), in the United States District Court for the Middle District of Tennessee, Nashville Division, in the discharge of their duties as such jurors, and to corruptly endeavor to influence, obstruct, and impede the due admin-

[File endorsement omitted]

istration of justice in the said trial, in violation of Title 18, United States Code, Section 1503.

[fol. 2] 2. That it was a part of the conspiracy that the defendant and co-conspirators would and did offer and promise to James C. Tippens, summoned as a petit juror in the said trial, ten thousand dollars if he would vote for the acquittal of James R. Hoffa in the said trial.

3. That it was a further part of the conspiracy that the defendant and co-conspirators would and did offer and promise to one Carl Fields, son of Gratin Fields, which Gratin Fields was a petit juror in the said trial, five thousand dollars for himself and five thousand dollars for Gratin Fields, if he would influence Gratin Fields to vote for the acquittal of James R. Hoffa in the said trial.

4. That it was a further part of the conspiracy that the defendant and co-conspirators would and did endeavor to have one Mattie Leath, daughter of the said Gratin Fields, influence Gratin Fields to vote for the acquittal of James R. Hoffa in the said trial.

5. That it was a further part of the conspiracy that the defendant and co-conspirators would and did endeavor to have one Dallas Hall ascertain and cause to be ascertained the identity of individuals who were acquainted with any petit jurors in the said trial, and who could and would, on behalf of the said defendant and co-conspirators, communicate with the said jurors and endeavor to influence their votes in the said trial.

6. That it was a further part of the conspiracy that the defendant and co-conspirators would and did offer and promise to one James M. Paschal, husband of Mrs. James M. Paschal, which Mrs. James M. Paschal was a petit juror in the said trial, help in securing for him a promotion in the Tennessee State Highway Patrol if he would influence his wife to vote for the acquittal of James R. Hoffa in the said trial.

7. That it was a further part of the conspiracy that the defendant and co-conspirators would misrepresent and conceal, and cause to be misrepresented and concealed the purpose of and the acts done in furtherance of the conspiracy.

[fol. 3] Overt Acts

In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed:

1. On or about October 23, 1962, in the Middle District of Tennessee, Nashville Division, Lawrence W. Medlin met and had a conversation with James C. Tippens.

2. In or about the months of October and November 1962, in the Middle District of Tennessee, Nashville Division, Thomas Ewing Parks met and had a conversation with Carl Fields.

3. In or about the months of October and November 1962, in the Middle District of Tennessee, Nashville Division, Thomas Ewing Parks gave Carl Fields a sum of money.

4. In or about the latter part of November 1962, in the Middle District of Tennessee, Nashville Division, James R. Hoffa and Allen Dorfman entered the Louisville and Nashville Railroad Union Station located at Tenth Street and Broadway in Nashville, Tennessee, where Allen Dorfman made a telephone call to Nicholas J. Tweel.

5. In or about the latter part of November 1962, Nicholas J. Tweel, in the Southern District of West Virginia, made a telephone call to Dallas Hall, in the Middle District of Tennessee, Nashville Division.

6. On or about November 18, 1962, at or about 1:30 a.m., in the vicinity of Woodbury, Tennessee, in the Middle District of Tennessee, Nashville Division, Ewing King met and had a conversation with James M. Paschal.

(Title 18, United States Code, Section 371.)

Count Two

The Grand Jury further charges:

That on or about October 23, 1962, in the Middle District of Tennessee, Nashville Division, Lawrence W. Medlin and [fol. 4] James R. Hoffa, defendants herein, James R. Hoffa aiding, abetting, counseling, commanding, inducing, and procuring Lawrence W. Medlin so to act, did unlawfully, knowingly, wilfully, and corruptly endeavor to influence, intimidate, and impede a petit juror of a United States District Court in the discharge of his duty as such juror, to wit: James C. Tippens, who, as the defendants then and there well knew, had been summoned for jury service in the trial of *United States* v. *James R. Hoffa and Commercial Carriers, Inc.* (Criminal No. 13,241), in the United States District Court for the Middle District of Tennessee, Nashville Division, in that Lawrence W. Medlin did meet with James C. Tippens and did inform James C. Tippens that he would be paid ten thousand dollars if he would vote for the acquittal of James R. Hoffa in the said trial.

(Title 18, United States Code, Sections 2 and 1503.)

Count Three

The Grand Jury further charges:

That during the period from on or about October 20, 1962, up to and including December 22, 1962, in the Middle District of Tennessee, Nashville Division, Thomas Ewing Parks, James R. Hoffa and Larry Campbell, defendants herein, James R. Hoffa and Larry Campbell aiding, abetting, counseling, commanding, inducing, and procuring Thomas Ewing Parks so to act, did unlawfully, knowingly, wilfully, and corruptly endeavor to influence, intimidate, and impede a petit juror of a United States District Court in the discharge of his duty as such juror, to wit: Gratin Fields, who, as the defendants then and there well knew, was then serving as a petit juror in the trial of *United States* v. *James R. Hoffa and Commercial Carriers, Inc.*

(Criminal No. 13,241), in the United States District Court for the Middle District of Tennessee, Nashville Division, in that Thomas Ewing Parks did meet with Carl Fields, a son of Gratin Fields, and did offer and promise to Carl Fields a sum of money, that is to say five thousand dollars for [fol. 5] himself and five thousand dollars to be paid to Gratin Fields, for the purpose of causing Carl Fields to influence Gratin Fields to vote for the acquittal of James R. Hoffa in the said case.

(Title 18, United States Code, Sections 2 and 1503.)

Count Four

The Grand Jury further charges:

That in or about the month of November 1962, in the Middle District of Tennessee, Nashville Division, Nicholas J. Tweel, James R. Hoffa and Allen Dorfman, defendants herein, James R. Hoffa and Allen Dorfman aiding, abetting, counseling, commanding, inducing, and procuring Nichols J. Tweel so to act, did unlawfully, knowingly, wilfully, and corruptly endeavor to influence, obstruct, and impede the due administration of justice in the trial of *United States* v. *James R. Hoffa and Commercial Carriers, Inc.* (Criminal No. 13,241), in the United States District Court for the Middle District of Tennessee, Nashville Division, in that Nicholas J. Tweel did offer and promise money and things of value to Dallas Hall for the purpose of inducing Dallas Hall to communicate with, and to cause others to communicate with, petit jurors serving in the said trial with respect to the votes, opinions and decisions of the said jurors in the said trial.

(Title 18, United States Code, Sections 2 and 1503.)

Count Five

The Grand Jury further charges:

That on or about November 18, 1962, in the Middle District of Tennessee, Nashville Division, Ewing King and

James R. Hoffa, defendants herein, James R. Hoffa aiding, abetting, counseling, commanding, inducing, and procuring Ewing King so to act, did unlawfully, knowingly, wilfully, and corruptly endeavor to influence, intimidate, and impede a petit juror of a United States District Court in the discharge of her duty as such juror, to wit: Mrs. James [fol. 6] M. Paschal, who, as the defendants then and there well knew, was then serving as a petit juror in the trial of *United States* v. *James R. Hoffa and Commercial Carriers, Inc.* (Criminal No. 13,241), in the United States District Court for the Middle District of Tennessee, Nashville Division, in that Ewing King did meet with James M. Paschal, the husband of Mrs. James M. Paschal, and did offer and promise to James M. Paschal assistance in getting him a promotion in the Tennessee State Highway Patrol for the purpose of causing him to influence Mrs. James M. Paschal to vote for the acquittal of James R. Hoffa in the said case.

(Title 18, United States Code, Sections 2 and 1503.)

Richard Palmer, Foreman.

James F. Neal, Special Attorney, Department of Justice.

[fol. 9]

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

Criminal No. 13,383

[Title omitted]

ORDER—July 3, 1963

Upon application to the Court and for convenience of the parties and on good cause shown any of the defendants may adopt any of the motions, pleadings, exhibits or any other papers or documents of any of the other defendants

by filing in writing an appropriate paper identifying all or the specific part or parts of the motion, pleading or other paper so adopted and such shall be as though such defendant had filed said papers, documents or writing.

Enter:

Frank Gray, Jr., United States District Judge.

[File endorsement omitted]

[fol. 10]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION
Criminal No. 13,383

[Title omitted]

MOTION FOR INSPECTION AND COPYING DOCUMENTS, ETC., AND, IN THE INTERESTS OF JUSTICE, FOR AN ORDER GRANTING A HEARING TO DETERMINE THE ILLEGAL OBTAINANCE AND USE OF ILLEGAL EVIDENCE, AND FOR A DISMISSAL OF THE INDICTMENT THEREFORE—Filed July 8, 1963

Comes now the defendant above-named, Thomas Ewing Parks, by his counsel, and respectfully moves this Court to order the attorneys for the United States to permit him to inspect, copy or photograph all:

1. All monitored conversations and statements of the defendants, or any of them; and

2. All recorded conversations and statements of the defendants, or any of them; and

3. All wiretap evidence secured by the United States, and the fruits thereof, of conversations and statements of the defendants, or any of them; and

4. All evidence obtained by eavesdrop of conversations and statements of the defendants, or any of them; and

5. Contents of a certain sealed envelope, given to the Court during the trial of Nashville Criminal No. 13241, which purportedly relates to the issues now before this [fol. 11] Court in the present cause of action.

And the said defendant respectfully moves that this Court order a hearing to determine the illegal obtainance and use of illegal evidence by agents of the United States, and for a further order suppressing such illegal evidence and dismissing the indictment herein.

Jacques M. Schiffer, Counsel for Thomas Ewing Parks.

[File endorsement omitted]

[fol. 12]

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

Criminal No. 13,383

[Title omitted]

ADOPTION OF MOTION ON BEHALF OF JAMES R. HOFFA —Filed July 8, 1963

Comes the defendant, James R. Hoffa, by his attorneys, and as permitted by order of the court heretofore entered, adopts and relies upon that motion for inspection and copying of documents, etc., and the statement in support of the

motion for inspection and copying of documents, etc., filed on behalf of this defendant's co-defendant, Thomas Ewing Parks.

James E. Haggerty, Sr., Z. T. Osborn, Jr., By Z. T. Osborn, Jr., Attorneys for James R. Hoffa.

[File endorsement omitted]

[fol. 13]

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

Criminal No. 13,383

[Title omitted]

ADOPTION OF MOTIONS, PLEADINGS, ETC., ON BEHALF OF LARRY CAMPBELL—Filed July 8, 1963

Comes the defendant, Larry Campbell, under the authority granted by order of this Court on July 3, 1963, and hereby adopts the following motions, pleadings, exhibits, documents and other papers filed on behalf of other defendants herein as follows:

I

Defendant Larry Campbell hereby adopts in its entirety the Motion to Dismiss and all memoranda filed in support thereof on behalf of defendant James R. Hoffa. The material herein adopted are specifically set out as follows:

1. "Motion to Dismiss";

2. "Memorandum 'A' in Support of Motion of Defendant Hoffa to Dismiss Counts 2, 3, 4 and 5 of the Indictment for Failure to Charge an Offense";

3. "Memorandum 'B' in Support of Motion of Defendant Hoffa to Dismiss Count 1 of the Indictment for Various Grounds";

4. "Memorandum 'C' in Support of Motion of Defendant Hoffa to Dismiss Indictment on the Ground that the Grand Jury was Neither Fair Nor Impartial";

5. "Memorandum 'D' in Support of Motion to Dismiss [fol. 14] Indictment on the Ground that Grand Jury was Unfairly Impaneled and that the Court Failed to Ascertain on Voir Dire Whether Any Prospective Juror Had Been Influenced by Adverse Publicity Against Defendant; and that Defendant was Thereby Deprived of His Right to an Unbiased Grand Jury";

6. "Memorandum 'E' in Support of Motion of Defendant Hoffa to Dismiss Indictment on the Ground of Misconduct on the Part of Government Representatives";

7. "Memorandum 'F' in Support of Motion of Defendant James R. Hoffa to Dismiss Indictment for Improper Conduct of Grand Jurors";

8. "Memorandum 'G' in Support of Motion to Dismiss the Indictment on the Ground that Rule 6(d) and 6(e) of the Federal Rules of Criminal Procedures Have Been Violated";

9. Specifically, all exhibits, affidavits, or references to other materials contained in said Motion to Dismiss and Memoranda above referred to.

In addition to the foregoing, Defendant Larry Campbell respectfully moves the Court to dismiss Count No. 1 of the Indictment and/or to strike his name from Count No. 1 of the Indictment, because said Count No. 1, although naming him as a co-conspirator, does not allege his participation in the formation of a conspiracy or any overt act to effectuate the offense, all to Defendant Larry Campbell's preju-

dice. In support of the foregoing, Memorandum B above referred to in support of motion of Defendant Hoffa to dismiss Count 1 of the Indictment is adopted in its entirety.

[fol. 15]

II

Defendant, Larry Campbell, hereby adopts in its entirety the motion entitled "Motion for Inspection and Copying Documents, etc., under Rule 16, Federal Rules of Criminal Procedure, and in Advance of Rule 17(c)" and all memoranda or other papers filed in support thereof on behalf of Defendant James R. Hoffa.

III

Defendant Larry Campbell hereby adopts in its entirety the Motion entitled "Motion to Require Disclosure of Grand Jury Minutes to Defendants" and all memoranda or other papers filed in connection therewith on behalf of Defendant Hoffa.

IV

Defendant Larry Campbell adopts the Motion entitled "Motion to Dismiss for Improper Selection and Impaneling of Grand Jury" and all memoranda and other papers filed in support thereof on behalf of Defendant Hoffa.

V

Defendant Larry Campbell hereby adopts in its entirety the "Motion of Defendant James R. Hoffa for Transfer from the District for Trial", and all memoranda, exhibits or other papers filed in support thereof. In particular, Defendant Larry Campbell adopts all of the allegations contained in said Motion of Defendant James R. Hoffa for Transfer from the District for Trial setting out the reasons for such motion to transfer contained in numbered paragraphs 1 through 14, and the prayer of said motion; and in furtherance thereof, and in order that Defendant

Larry Campbell's name may be substituted in the appropriate places for James R. Hoffa's name, Defendant Campbell asserts that he is a Business Representative for Local 299 of the International Brotherhood of Teamsters Union in Detroit, Michigan; that because of the official position of James R. Hoffa as President of Local 299, all and [fol. 16] singular of the reasons for the motion for transfer as set out in said motion of James R. Hoffa would be equally applicable to defendant Larry Campbell. All memoranda, exhibits, affidavits or other papers filed in support thereof would be equally applicable upon the substitution of the proper name or number, and this having been done by this motion to adopt, Defendant Larry Campbell adopts all of said motion of Defendant James R. Hoffa for Transfer From the District for Trial and all memoranda, exhibits, and papers filed in support thereof.

VI

Defendant Larry Campbell hereby adopts in its entirety the Motion entitled "Motion for Inspection and Copying of Documents, etc., and in the Interest of Justice for an Order Granting a Hearing to Determine the Illegal Obtainance and Use of Illegal Evidence and for Dismissal of the Indictment Therefore", and all affidavits, memoranda, exhibits or other papers filed in connection therewith on behalf of defendant Thomas Ewing Parks.

Wherefore, Defendant Larry Campbell adopts all of the matters hereinabove set out.

Cecil D. Branstetter, Attorney for Larry Campbell,
216 Third Avenue North, Nashville 3, Tennessee.

Certificate of Service (omitted in printing).

[File endorsement omitted]

[fol. 17]

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

Criminal No. 13,383

[Title omitted]

GOVERNMENT'S MEMORANDUM IN OPPOSITION TO MOTION OF DEFENDANT PARKS FOR INSPECTION AND COPYING DOCUMENTS, ETC., AND, IN THE INTEREST OF JUSTICE, FOR AN ORDER GRANTING A HEARING TO DETERMINE THE ILLEGAL "OBTAINANCE" AND USE OF ILLEGAL EVIDENCE AND FOR DISMISSAL OF THE INDICTMENT THEREOF—Filed July 15, 1963

Defendant Parks submits this motion, in which defendants Hoffa and Campbell join.[1] This motion is patently without merit and should be denied in its entirety and without any hearing.

With respect to the prayer for a hearing to determine the existence of, and the subsequent suppression of, evidence obtained illegally, the Government represents to the Court that it has no evidence obtained by wire tap or other illegal means, and, no fruits of such evidence. Defendants neither attach affidavits to the motion nor make any offer of proof, that any such evidence exists. In the statement of counsel attached to the motion, counsel says it "is expected to be supplied by witnesses at the hearing who are employees of the Government." Counsel for the Govern-

[fol. 18] ment herein represent that they will not supply

[1] This reply will be as applicable to defendants Hoffa and Campbell as to defendant Parks. This same defendant submits another motion for copying and inspection of documents and that motion will be answered in the answer to the similar motion of defendant Hoffa.

such at the hearing; that this counsel, Jacques Schiffer, has never inquired of them if they would so testify; and, so far as Government counsel have been able to determine, that Mr. Schiffer has never contacted *any* employee of the Federal Government to determine if any such evidence exists.

Patently this motion is based upon nothing more than an entirely erroneous *personal* conviction of this counsel that Government agents continuously violate the law. Such distorted personal convictions are hardly grounds for this Court to grant a hearing to permit this counsel to expound his peculiar views or to conduct a fishing expedition to determine what evidence the Government has against his client. This motion is not even supported by the mere suspicion held to be insufficient grounds for the Court to grant a hearing in *Lawn* v. *United States,* 355 U.S. 339, 338-49 (1958), wherein the Court stated:

> "These facts make clear that petitioner laid no foundation for the holding of a protracted preliminary hearing (at which they would, in effect, take depositions of the Government witnesses) to determine whether there was any substance to their suspicion that direct or derivative use may have been made by the 1953 grand jury of materials which were produced by petitioners before the 1952 grand jury."

A fortiori, the motion does not approach the solidity required in *Nardone* v. *United States,* 308 U.S. 338, 342 (1939) in which the court, affirming the denial of a hearing on a similar motion, stated:

> "Dispatch in the trial of criminal causes is essential in bringing crime to book . . . mischief would result were *tenuous claims* sufficient to justify the trial court's indulgence of inquiry into the legitimacy of evidence in the Government's possession . . . Therefore claims [fol. 19] that taint attaches to any portion of the Gov-

ernment's case must satisfy the trial court with their *solidity* and not be merely a means of eliciting what is in the Government's possession before its submission to the jury." (Emphasis added)

The Government, therefore, relies squarely on *Lawn* and *Nardone* in asking that this motion be denied summarily.[2]

With respect to that part of the motion asking to inspect, copy or photograph five categories of documents, the Government points out that defendants fail sufficiently to designate the documents sought to be inspected, fails to make any showing of reasonableness and materiality of the requests; and fail to limit its request to tangible objects obtained from the defendant, or from others by seizure or process. For these reasons, and each of them, this part of the motion must be denied summarily. Rule 16, Federal Rules of Criminal Procedure. *United States* v. *Cimina,* 31 F.R.D. 277 (S.D.N.Y. 1962); *United States* v. *Smith,* 209 F. Supp. 907 (E.D. Ill. 1962); *United States* v. *Wernikov,* 214 F. Supp. 112 (E.D. Pa. 1963); *United States* v. *Iozia,* 13 F.R.D. 325 (S.D.N.Y. 1952); *United States* v. *Steely,* 32 F.R.D. 244 (E.D. Pa. 1962); *United States* v. *Finegan,* 189 F. Supp. 728, 730 (N.D. Ohio 1960); *United States* v. *Workman,* 26 F.R.D. 183, 196 (E.D. Ill. 1960); *United States* v. *Haug,* 21 F.R.D. 22, 26 (N.D. Ohio 1957).

Even if this part of the motion be considered under Rule 17(c), although both the Court and Government are left to speculate on this, the motion is still patently inadequate and should be denied summarily. Defendants do [fol. 20] not even attempt to make the showing required by Rule 17(c). *United States* v. *Ioza, supra; United States* v. *Wernikove, supra.* Moreover, the items sought are not evidentiary in nature and thus not subject to Rule 17(c).

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[2] For additional authority see *United States* v. *Weinberg,* 108 F. Supp. 567 (D.D.C. 1952); *United States* v. *Fujimoto,* 102 F. Supp. 890, 895 (D. Hawaii 1952).

Bowman Dairy Co. v. *United States*, 341 U.S. 214 (1951); *United States* v. *Murray*, 297 F.R.D. 812 (2d Cir.) Cert. denied, 369 U.S. 828 (1962). Finally this is not a case in which the Court's discretion to permit inspection of Government documents before trial should be exercised. Rule 17(c) is not an instrument of additional discovery, but only a means to expedite the trial. *Bowman Dairy Co.* v. *United States, supra.* The Government points out that this is not a case to be proved by voluminous documents and that review of the *very few* Government documents during trial will cause no delay.

For the foregoing reasons, this motion should be denied.

Respectfully submitted,

James F. Neal, James A. Durkin, Nathan Lewin,
Attorneys for Plaintiff.

Kenneth Harwell, United States Attorney.

[File endorsement omitted]

[fol. 21] [File endorsement omitted]
[fol. 22]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION
Nashville Criminal No. 13,383

UNITED STATES OF AMERICA, Plaintiff,

vs.

JAMES R. HOFFA; LAWRENCE W. MEDLIN; LARRY CAMPBELL; THOMAS EWING PARKS; ALLEN DORFMAN; NICHOLAS J. TWEEL; and EWING KING, Defendants.

Nashville, Tennessee

Transcript of Proceedings—July 24, 1963

Before: Hon. Frank Gray, Jr., Judge.

APPEARANCES

For the Government:

Mr. John J. Hooker, Attorney, Nashville, Tennessee
Mr. James F. Neal, Attorney, Washington, D. C.
Mr. James A. Durkin, Attorney, Washington, D. C.
Mr. Nathan Lewin, Attorney, Washington, D. C.

For the Defendant, James R. Hoffa:

Mr. Z. T. Osborn, Attorney, Nashville, Tenn.
Mr. James E. Haggerty, Attorney, Detroit, Michigan.

For the Defendant, Lawrence W. Medlin:

Mr. R. B. Parker, Jr., Attorney, Nashville, Tenn.

For the Defendant, Larry Campbell:

Mr. Cecil Branstetter, Attorney, Nashville, Tenn.

[fol. 23]

For the Defendant, Thomas Ewing Parks:

Mr. Jacques M. Schiffer, Attorney, New York City.

For the Defendant, Allen Dorfman:

Mr. Harvey M. Silets, Attorney, Chicago, Illinois.

For the Defendant, Nicholas J. Tweel:

Mr. Dave Alexander, Attorney, Franklin, Tenn.

For the Defendant, Ewing King:

Mr. Joe P. Binkley, Attorney, Nashville, Tenn.

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[fol. 24]

COLLOQUY BETWEEN COURT AND COUNSEL RE EVIDENCE

The Court: Let me attempt to clarify what I want to hear. I want to hear argument as to why the movents are entitled to discovery as to allegedly illegal or improper actions of Government representatives with reference to Grand Jury hearing or gathering of evidence. It may be the discovery I previously granted in limited form here actually pertains to some degree to this question, but going on from there, what is your foundation for your assertion you are entitled to discovery on this particular matter?

Mr. Schiffer: May I proceed now?

The Court: Go ahead.

Mr. Schiffer: With reference to this particular motion, your Honor, I take this position on this motion in behalf of Mr. Parks. The Court will kindly bear in mind all my former arguments on the prior motions with regard to publicity and everything else, to make one picture of this, so that I can channel my arguments down to the instant motion.

Since we are not living in a vacuum, and attorneys must be realistic, when they undertake the criminal defenses of persons charged with crime in a federal court, counsel has been fully informed by the newspapers, by reports of [fol. 25] Congressional committees, testimony before Con-

gressional committees, that it seems to be common knowledge in Washington, D. C., the seat of our Government, that by the thousands telephone calls are being monitored within the Departments; that officials of the United States Government in their conversations on the telephone, their calls are being monitored. I must assume that if this is going on in the seat of our country, that insofar as every other Department of the Government is concerned, that there is a possibility; if there is a possibility, there can be a probability, it is being used in law enforcement. Books have been written, they stand in public libraries, they certainly are on public sale, nobody has made attempt to suppress the books, nor contradict, and they state, your Honor, over the length and breadth of this nation, persons charged with due execution of the laws of the United States, on every level of law enforcement, are using wire taps, and monitoring conversations of persons on the telephone.

As a result, being aware of this information, it has had an appreciable effect upon the defense of Mr. Parks, and I want to find out on behalf of Mr. Parks, to give him his full Constitutional adequate right, that if anyone in this case, as a result of wire taps, or monitoring of statements of Mr. Parks, or any other Defendants in the case, since he is in here as co-conspirator, has been monitored by any [fol. 26] law enforcement agency, involved with the prosecution of this matter before the Court in this instant case.

I must bear in mind, I must be aware realistically that a sub-cabinet officer, early this year, when being queried in Washington, D. C., told the newspaper reporters that, yes, Government officials have a right to lie to the American public, then if I'm going to defend Mr. Parks, your Honor, in the area and in the atmosphere where my own elected public officials tell me as an American citizen that they have a right to lie to me, as a citizen, then I must look askance on every action taken by any division and subdivision of the Government of the United States, when it

comes to criminal prosecution, and in this case, Mr. Parks. If I did not, your Honor, I certainly believe it would be reprehensible conduct on the part of defense counsel if he did not move to exhaust every last vestige of a violation of due process of law as it applies to Mr. Parks, and primarily your Honor, that is the reason why the motion was made.

Now, to go to monitored conversations or statements of Defendants, or any of them, I also bring in all recorded conversations and statements of the Defendants, or any of them, and in behalf of Mr. Parks, because of the posture of Mr. Parks in this indictment, where he is co-joined here with co-defendants, anything which might have been a monitored conversation recorded, and any statements of any [fol. 27] defendants with any other defendant, or with others, as it relates to this case, and for Mr. Parks, we have a right to know about it, because if that took place, it violates basically the entire prosecution process in this country; it violates due process to a point—but we need not go any further in this case, should that be true.

May I proceed on counts three and four, points three and four here, your Honor, and probably save time of another regress to the Court. I believe that is touched upon in another portion of your Honor's order, but with a few more words, I think I can dispense of the entire issues which remain on this motion.

Mr. Neal: Mr. Schiffer, which motion, three and four of what motion are you now referring to, sir?

The Court: I assume you mean the Parks second motion to dismiss, the only one there, since the other was stricken.

Mr. Schiffer: Yes, sir.

The Court: I thought that raised merely legal questions covered in eight, as to whether if there is illegal activity, whether it requires dismissal of the indictment.

Mr. Schiffer: No, sir, I hadn't covered that point in the other item, I cover it here.

The Court: All right.

[fol. 28] Mr. Schiffer: Now, with reference to, Your Honor, wire tap evidence, secured by the United States, and neither their offer of conversations or statements of the defendants or either of them, I make the same assertion, Mr. Parks cannot be limited in his inquiry as to the integrity of the prosecution against him. He has a legal right to any and every issue in accordance with recorded cases insofar as he may feel that his rights have been violated substantially, and if they have been, Your Honor, it is a simple matter to dispose of the entire indictment, and in addition all evidence obtained by eavesdropping of conversations and statements of the defendants or any of them, at any other persons, if the Government has—

The Court: Mr. Schiffer, I want to hear you in full. We really have in argument here whether discovery should be permitted on this matter. It is legal argument, and if you have any case to support your apparent belief, that a statement of counsel that is a matter of common knowledge that telephones have been tapped somewhere by various people entitles you to examine Government witnesses in this case, I'll be happy to hear it. I haven't seen such authorities. If you have it—

Mr. Schiffer: This is my one proposition on these first four points, Your Honor.

The Court: All right.

Mr. Schiffer: I say this, Your Honor, I want to be [fol. 29] fair to the Government, it's my Government, after all. I want the Government to be fair to Mr. Parks. I believe it is no more than moral and fitting and legal, certainly equitable, that I call upon the Government at this time with relation to items 1, 2, 3 and 4 for the Government to state to the Court here in open court as to whether they have any of the items referred to in 1, 2, 3, and 4 or whether anybody has partaken of activity to produce items 1, 2, 3 and 4, and if it has been so done, then we'll ask for dismissal of the indictment because of the poison fruit.

I think we, in all fairness to Mr. Parks, this is a matter of the integrity of the prosecution, I think I have a right to ask it, and on behalf of Mr. Parks, and the other defendants, have joined in this motion, I so make my request. I make it directly to Mr. Neal.

The Court: Any other evidence counsel have, any argument they want to submit on this matter?

Mr. Osborn: I may be able—(pause) With your permission—

Mr. Schiffer: Yes.

Mr. Osborn: May it please Your Honor, with Mr. Schiffer's permission, since I was present at the hearing, and I refer to a hearing which is known as secret session No. 2 in the trial of the United States versus Mr. James Hoffa, and Commercial Carriers, counsel for the defense were [fol. 30] given a long list of telephone calls which had been made by Mr. Hoffa to Detroit by persons in Detroit to Mr. Parks, by persons in Louisville to Mr. Parks, and then in final support a sealed instrument, a sealed envelope was delivered to His Honor. Now, each of the defendants, or each of counsel, if I may state it in this fashion, and we may be entirely mistaken about this, but counsel were of the impression that the sealed instrument, or sealed envelope that was given to His Honor, Judge Miller, was descriptive of conversations that took place in connection with these phone calls.

Now, counsel for the defense were not permitted to see the material in the sealed envelope. We can only represent this to Your Honor, that the Government had obtained records showing certain telephone calls, and then apparently what was said in the telephone calls was handed up in sealed envelope, that materially related in its entirety to the case brought against this defendant Parks, and we think that it should be called to Your Honor's attention that supporting evidentiary matters respecting the use of wire tapping, if any, or the monitoring of telephone conversations, telephonic or otherwise, or eavesdropping, might well

appear if Your Honor would proceed to an examination of the sealed envelope which Government counsel has tendered to the Court.

Mr. Neal: Your Honor, we do tender that to the Court. [fol. 31] We join with counsel, we hope all counsel join, we submit the envelope to the Court, we submit it, and hope the Court will take that into consideration and prepare an order from Your Honor to Judge Miller to transfer that document to Your Honor. We join with counsel as to that. We don't think now is the time for that. We join, as the Government's response.

Mr. Silets: May it please the Court, I think in view of Your Honor's rule of July 18, the portion of the rule Mr. Neal now refers to, is set forth in Your Honor's Paragraph 12.

The Court: Yes, sir, that is what I thought, Mr. Osborn, is the one raised.

Mr. Silets: If Your Honor would permit, I'd like to respond to Mr. Neal. He, in his brief, suggests the contents of the document, the envelope, which is now in Judge Miller's possession, be turned over to Your Honor, and I would object to that, because by that very technique he is seeking to restrain the defendants from discovery. If we are properly allowed discovery, he is now saying it is beyond purview of the defendant to obtain this because Judge Miller has it, and we want this to continually be restrained and outside the province of the defendants, of their view, by giving it to Judge Gray. Now, I am prepared, if Mr. Neal seeks to argue this very issue, I will argue it, but I will not agree that this document by virtue of the Government's taking [fol. 32] some unknown evidence, unknown to Mr. Parks, he was not a defendant in that case, he was not present at the secret sessions, I don't know what was in it. The Government knows, it's a novel and interesting technique, the Government should take what apparently is very pertinent and material evidence and permanently withdraw it from the observation of the defendants by placing it in the custody and control of the district court. I object to that.

The Court: Do you agree, Mr. Silets, it really is not before the Court on Question 7?

Mr. Silets: I would say so.

The Court: Well, we will postpone any consideration of that until we come to it.

Mr. Branstetter: May it please the Court, on behalf of the defendant Campbell, I think the only possible [sic] it could be before the Court under 7 is to assert that this evidence that is in the sealed envelope would substantiate what has been said about wire taps, if there are wire taps we are entitled to it.

Mr. Silets: If that is the case, if it is apparent from the Court's examination of the document, or if the Government sees fit to admit that is the situation, then it is certainly proper at this point.

The Court: Now, the Judge of this Court hasn't seen it, doesn't know anything about what is in it. I am not ad-
[fol. 33] vised on that.

Mr. Osborn: Of course, my point was not to do anything but point to this, there was in this secret session which related to the matter subsequently made the subject of indictment against Parks, there was a long list of telephone calls furnished to defense counsel. No information whatever about what the phone calls were about was furnished to us, and then apparently information in some way relevant to the phone calls was furnished to Judge Miller. That would support, you see, factually, the proposition.

The Court: If an order is obtained from Judge Miller, transferring the envelope to me, taking it out of the other case, I will certainly look at it, and I would have to do that before I could determine whether it is pertinent and proper in any manner. Such order has apparently not yet been done, at least I have heard nothing about it. If it is done, that is a procedure before Judge Miller at—

Mr. Silets: Your Honor, if I were to make any motion before Judge Miller, it would be to spread of public record, the contents of that envelope.

The Court: I am not suggesting anybody make a motion before Judge Miller. I am merely saying if he enters an order on anything in connection with that case, that is his prerogative, whatever the order may be.

Mr. Schiffer: May I state on behalf of Mr. Parks, Your [fol. 34] Honor, anything delivered during the course of a legal controversy, or legal action, in the Court, is not the property of Judge Miller; it is the property of the Court, and not of the individual judge thereof, and I believe, Your Honor, and I say this with due deference to Your Honor and Judge Miller, that since it is the property of the Court, itself, we shouldn't be forced to go back to Judge Miller. We just as soon obtain it by stipulation with Government counsel that it be turned over to Your Honor.

The Court: I don't care how it's handled; I read the order in which it was sealed, that's the only information I have on it.

Is there any further argument by the defendants as to their right to discovery under Item 7?

Mr. Branstetter: On that, Your Honor, the only matter, I can conceive this matter can get very confusing to the Court, and to the number of defendants, I think this points out the fallacy in the approach to the Government in trying to bring all of this into one hearing. Insofar as defendant Campbell is concerned, it would seem to me that this would be appropriate under Item 7, I'm trying to limit it to this, Your Honor, only insofar as it would permit me as counsel for Campbell to see whether or not these matters could constitute illegal wire taps, or wire taps of any form. Other than for that purpose, of course, I make no assertion [fol. 35] except to protect the rights of my client in every proper procedure.

Mr. Schiffer: Well, then, Your Honor, may I conclude on behalf of Mr. Parks at this time?

The Court: All right.

Mr. Schiffer: I made the request to the Government to state to the Court whether or not they had any, one, two,

three, and four, for me to proceed. Now, at this time I incorporate for the purposes of proof items 1, 2, 3, and 4, and I ask a hearing at this time of the contents of the sealed envelope to prove in matters 1, 2, 3, and 4, that there have been monitors of telephone calls, recorded conversations, wire tap evidence, and eavesdropping conversations, and that the contents of that envelope at this time will disclose the Government has performed 1, 2, 3, and 4, singularly or together; that that proof, once we have it in our hands to present to the Court, will effectively dismiss this indictment. I offer that as the proof for items 1, 2, 3, and 4, Your Honor.

Mr. Neal: May the Government respond, Your Honor?

The Court: Yes, sir.

Mr. Neal: There is a fable in the book by Aesop of the villagers coming out one morning and seeing this mountain shaking and trembling. They were frightened. They realized it was in labor. They were in fear of what the offspring might be. After much trembling, much agitation, [fol. 36] there was a squeak, and a mouse came out of the foot of the mountain. Mr. Schiffer represented to this Court, Your Honor, that he would prove that there was surveillance to the grand jury, he represented to the court—

The Court: No, he didn't represent that, Mr. Neal. He just didn't say anything except I should have a hearing, then on it, and adopted various things indicated as far as the investigators knew, there had been no surveillance, it was completely flagrant disregard of his responsibilities to support a motion in any way. Go ahead.

Mr. Neal: All right, Your Honor. The Government represents to this court, it represents to all defense counsel, that the Government has nothing in its possession, no evidence obtained by any illegal means. It represents that it has no fruits of any evidence obtained by illegal means.

With respect to the legal question which I understand is under consideration here, I think the answer is apparent once the legal question is phrased, and that is whether there has been sufficient showing to justify His Honor's inquiry

into whether the Government has illegally obtained evidence in its possession, or the fruits thereof. The Government is content to rest upon the cases of Nordon versus United States, and Long versus United States, which simply say, in some, [sic] that to justify a hearing of the type re-[fol. 37] quested here, the movent must satisfy the Court of the solidity of the request, and of the offer of proof, before the Court will hold a hearing into the Government's evidence.

We represent, Your Honor, we submit that no showing whatever has been made, not even—,well, nothing is nothing, Your Honor, you can't put an adjective that makes nothing more nothing.

Mr. Schiffer: Of course, when the Government chooses, they can add four zeroes up and have quite a sum from that, Your Honor. They still haven't answered primarily.

Now, since Mr. Neal wants to indulge himself with Mr. Aesop, and certainly reminds me of a legal story we have emanating from the west that goes something like this. There was this posse that went out and caught this man, accused him of stealing a horse, so he brought him before the vigilante jury. After hearing the first set of witnesses, they said hang him. Then when they had heard the second set of witnesses, they said oh, no, let him go. When they had heard the third set of witnesses, they said oh, no, there never was a horse. That is the argument propounded here by the Government. Your Honor, we are dealing here primarily with the right of an individual charged with a crime, and we are dealing with the integrity of the prosecution.

The Court: We are dealing, Mr. Schiffer, with whether the defendants have laid the foundation for the Court to [fol. 38] order a hearing on allegedly illegal improper conduct. That is what we are dealing with. If you will state what foundation has been laid, as I get it, the foundation stated up to now is this, a general statement that the court take judicial notice that telephone lines have on some occasions been tapped, and second, a statement that some paper

in another case may show that there is foundation for the hearing. If anything else, you can state it. Otherwise, we are going to close the hearing.

Mr. Schiffer: With reference to the very contents of the envelope, that is a filed document in this very court, which has jurisdiction to try Mr. Parks. In that case, and I maintain, Your Honor, and I say so very respectfully, and on behalf of Mr. Parks, that the Court should not be put in the position by the Government to hide from the defendant Parks matter which they delivered to the Court in a sealed envelope, which in and of itself may sell his complete defense and spell out the dismissal of this indictment; that the Government cannot hide from its own responsibility, because if this was the kind of a door that is open to prosecutors, Your Honor, there would be no end to how far this kind of nefarious proceeding could go. I simply say, most respectfully, Your Honor, on behalf of Mr. Parks, we request at this time the document which was filed with Judge Miller as the judge of this court, and that sealed envelope be disclosed at this time, to Mr. Parks, and that [fol. 39] the secrecy of that sealed envelope and particularly with reference to its contents, that that cannot be kept constitutionally from this defendant to use in his own defense, because it is in that envelope what is covered by points 1, 2, 3, and 4 and we believe that raises a terrible constitutional issue in this case that the prosecutor could put the Court in the position—

The Court: Mr. Schiffer, we are still back to the question of illegal conduct, wire taps, and so forth, not as to whether what is in that envelope may be evidence in the case. I know of no rule that says that the defendant has the right to know what evidence the Government is going to put on. And if that is all that is in it, the defendant Parks doesn't have any right to know it.

Mr. Schiffer: No, Your Honor, what I'm saying is this, they have taken the court and made the court an adjunct of the prosecutor's office, because what they might be en-

titled to as discovery now we find suddenly is closed within the confines of the judicial branch.

The Court: You are entitled to discovery if you lay any foundation, proper foundation for discovery, you are entitled to discovery. There have been no statements made here that have laid proper foundation.

Mr. Schiffer: Your Honor, I thought Mr. Osborn laid the foundation, he has been given certain copies of certain [fol. 40] documents submitted by the Government in the last case. He as counsel was given certain copies of certain documents, which relate to telephone calls, long distance calls, certain numbers, apparently some of the numbers indicated by the Government in those papers have to do with Mr. Parks, the Government alleged, it had to do with Larry Campbell, the Government alleged. Since Mr. Parks—

The Court: All right, sir, he has been furnished them. It still doesn't show any illegal misconduct on the part of the Government. You haven't laid the foundation. I have been waiting here because you have the right to do it, if you do it I'll grant you relief that is in the power of this court. But you have to lay some foundation.

Mr. Branstetter: May it please the Court, we ask for subpoena now to be served upon the appropriate official of this court, whether it be the clerk or the judge of the other division, to produce in open court the envelope that has been referred to as containing documentations dealing with certain phone calls, or other material heard in the other division of the Court, and I believe designated as secret hearing number two.

The Court: Mr. Branstetter, you think you are entitled to have that brought in and read by the defense attorneys at this time?

Mr. Branstetter: I think, may it please the Court, this, [fol. 41] and I am acting on the Court's suggestion with reference to whether or not we can make a prima facie showing we are entitled to a hearing on the question that is

now before the Court; if, as has been represented to the Court, I was not present in those hearings, there was displayed to the defense counsel in a suit in which Campbell was not a defendant, certain phone calls that were purportedly made by the defendant Campbell, the Government could have this information only by the techniques, or by the methods that have been averred or alleged in this particular motion.

The Court: No, sir, not if I understand Mr. Osborn correctly. He didn't say they said anything about what the conversations were, merely they were phone calls made. Am I right about that, Mr. Osborn?

Mr. Osborn: There was nothing in the list of phone calls about what the conversation was.

The Court: Nothing has been said along that line.

Mr. Branstetter: But, may it please the Court, here is the next step, and this is our proof. I assume we are entitled to the subpoena power of this court to obtain whatever proof we assert is necessary to establish the additinonal fact that the Government did hand in, in a sealed envelope, what appears to be and what we contend to be the recordings of certain conversations.

[fol. 42] The Court: Nobody stated it appeared to be, or contended, they thought it was, except that they speculated it might be. That is as far as we have gotten up to now.

Mr. Branstetter: I know of no way that we can prove or disprove the particular point unless Government counsel, owing a responsibility equally to the defendants and to the Government, will state what was the contents of the envelope, or if it had relationship to the monitoring, or the wire tapping of telephone conversations between Campbell and some other person; or other persons, or whether or not they were held for that, but did make statements that were thus obtained.

Mr. Neal: May it please the Court, may I say something in relation to that?

The Court: Yes, sir.

Mr. Neal: I represent to the Court as an officer of the Court or I will take the stand and testify in answer to

this question that was asked, there is nothing in the contents of that envelope which was obtained illegally, or the fruits thereof. And when I say this, I am well aware of wire tapping, and divulgence is illegal obtainance of evidence, and I am probably the only one in this room who has seen the contents of the envelope.

Mr. Schiffer: Your Honor, I notice the qualification in the statement made by Mr. Neal, he said the monitoring or whatever it may be, wire tapping, and divulgence. Will Mr. [fol. 43] Neal say to this court as an officer of this court, that there was no wire tapping and no monitoring, period, without any qualifications?

The Court: About the envelope in the other case, Mr. Schiffer, only? You are not conducting a general inquiry of Mr. Neal, you are conducting one with reference to this particular paper? The envelope?

Mr. Schiffer: The envelope.

The Court: Ask it over again.

Mr. Schiffer: I now, Mr. Neal, made qualification in his statement to the Court, I ask Mr. Neal will he state unequivocally to the Court in relation to the contents of the envelope there was no monitoring used, no eavesdropping, there was no wire tapping, period.

Mr. Neal: May it please the Court, the Government represents that everyone knows what wire tapping is, and I am going to use that term, without getting into eavesdropping, monitoring, that sort of thing. I don't know what that means. I do represent to this Court that the contents of that envelope contains no information obtained by wire tapping. Now, I think that, Your Honor, is sufficiently definite. I make that representation, knowing the contents and all they can do is, as Your Honor said—

The Court: Will you add to it, Mr. Neal, or wire tapping or any other method which has been held to be illegal by [fol. 44] the courts?

Mr. Neal: I will add that to it, Your Honor.

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[fol. 45]

Nashville, Tennessee
July 26, 1963

• • • • • • •

[fol. 46] After Recess—11:20 a.m.

COLLOQUY BETWEEN COURT AND COUNSEL ON SETTING OF TRIAL DATES

The Court: All right, Gentlemen, are we ready to proceed on the question of trial times? Does the government have anything it wants to say on it?

Mr. Neal: Would you indulge me just a moment, Your Honor?

The Court: Yes, sir.

(Respite. Conference between government counsel out of the hearing of the reporter.)

Mr. Neal: May it please the court, the government, I believe, has some responsibility for the trial, for the sequence of trials in the federal courts. I don't pretend that this responsibility is superior to the court's. Of course the court is the ultimate responsibility. But it is my understanding that traditionally the government has some discretion or flexibility in moving cases for trial. We believe this, Your Honor. We believe that charges involving tampering with juries, obstruction of justice, putting clouds over the federal judiciary, should be given precedent over all other cases. It is traditionally and I believe it is provided in the rules that criminal cases take precedent over civil cases. The government believes that cases involving tampering or obstruction of justice, alleged tampering with juries in federal cases should be given precedent even over ordinary criminal cases.

[fol. 47] For that reason, among others, we move for a trial date here in this case of the counts two, three, four and five as early as possible. We point out to the court that there is a case involving the defendant Hoffa, an

indictment in the Northern District, I believe it is the Northern District—

Mr. Haggerty: Northern District of Illinois.

Mr. Neal: Northern District of Illinois, the indictment of which was returned around June 4th, am I correct? The indictment in this case, Your Honor, was returned May 9th.

At the arraignment of that indictment I believe defendants moved for an early trial there. There was colloquy between the court and counsel for the government. The court stated, I'm referring to Page No. 17 of that transcript, a copy of which I will make available to Your Honor. The court there stated, after the government counsel had said it was his understanding that the Nashville case having been brought first, the government would want to go to trial first in Nashville. The court then stated in response to defendant's request for a trial date there, the court stated two things.

No. 1, that he wanted to be advised by September 4th of this year, one, as to the government's decision as to which case they would try first; and,

[fol. 48] No. 2, if they decided the Nashville case should be tried first, whether that there is a firm date for trial at least by early in the Fall.

And he said that I will tentatively, I believe Mr. Haggerty mentioned this, I will tentatively set October 2nd for the trial of the case there.

The Court: That is the first Monday in October, isn't it?

Mr. Neal: That is the first Monday in October. But he says, Your Honor, and I say I will make this transcript available to the court, but he says if the government decides to try the Nashville case first and if they are successful in getting a firm trial date, then they should come back into me on September 4th and I will eliminate that tentative date from the calendar.

We have decided, may it please the court, that the government will, if we are successful, will try the Nashville

case first. We will try or we will suggest trial of the last four counts of the Nashville case first. We do submit that this court should set a trial date in order to satisfy the requirements of Chicago because the indictment was returned first, but more important to Your Honor, because this case involves the cloud over the judiciary, a cloud over the entire jury in the Hoffa case, it involves obstruction of justice and tampering of justice. We are not telling Your [fol. 49] Honor, we are not suggesting a specific date, Your Honor. We are simply saying we would like a trial date by early November. We would like it if possible. Excuse me. October. We would like it, if possible, Your Honor, on or prior to October 7th so that it will be clear to your colleague in Chicago that his conditions have been fulfilled.

So, we would like a trial date prior to or at the latest on October 7, 1963.

The Court: Defense counsel? Mr. Haggerty.

Mr. Haggerty: May it please the court, on behalf of the Defendant Hoffa we likewise approve of trial first on counts two, three, four and five. Now, in reference to the Chicago situation, the situation in Chicago, and here is the transcript, is that by September 4th we were to report to the court. The court set a tentative date in Chicago of October 7th. If by September 4th the government has determined that this case should be tried first, and that a date whenever it may be, is set by September 4th, I take it that the trial judge in Chicago will yield to this court.

Now, I call Your Honor's attention to and I ask Your Honor to refrain from setting a trial date at this time for the reason that, frankly, there are points of law that I intend to petition for mandamus to the Sixth Circuit as soon as humanly possible on at least two points, and I would ask Your Honor that Your Honor defer from setting [fol. 50] a trial date until the court can pass upon my petition for mandamus.

Mr. Neal: Would the court like the copy of the transcript? I think you probably have the same one.

Mr. Haggerty: I have the same one.

Mr. Neal: I don't mind who submits which copy.

The Court: I don't think there is any disagreement between counsel. I think we understand the situation there.

MOTIONS FOR SEPARATE TRIALS AND OVERRULING THEREOF

Mr. Silets: If Your Honor please, my client, Mr. Dorfman, has no interest in the Chicago case. This only heightens and points out that the government by virtue of Mr. Hoffa is dragging all the other defendants down along with him.

I would like to renew at this time my motion for a separate trial and a severance of my specific count, Count No. 4. I feel that if counts two, three, four and five were tried together, the very onus by which the conspiracy was thrown in will still exist namely, all of the evidence pertaining to all the other parties will still go in against my client.

I so move now, Your Honor, that Mr. Dorfman be granted a separate trial.

The Court: The motion is overruled.

Mr. Branstetter: I would like to join in the statement by Mr. Dorfman, Mr. Dorfman's attorney, with reference to the motion to renew the severance as to the counts and, [fol. 51] of course, it is a rather novel proposition and untimely, may it please the court, for federal jurisdictions apparently to be placed in a position of competing to try someone. I don't think it speaks well for the judiciary.

The Court: I don't recognize it as that, Mr. Branstetter, and your motion is overruled also.

Mr. Parker: May it please the court, Your Honor as I understand it has ruled on the motions and has also ruled that there should be separate trials on Count No. One in the indictment which is the conspiracy count against Mr. Hoffa, and the remaining counts involving different charges against the other defendants.

The Court: And Mr. Hoffa. He is involved in all of them also, Mr. Parker.

Mr. Parker: Yes, sir, Your Honor, and on behalf of Mr. Medlin I respectfully urge Your Honor to set for trial in the logical order that is the conspiracy charge against Mr. Hoffa.

We think that in view of the previous motions which have been ruled upon, in view of the facts of life that defendant Medlin's rights may best be protected if the government proceeds in the logical order, that is, to try the conspiracy count against Mr. Hoffa first.

We so urge Your Honor to consider setting that trial of the defendants on the remaining counts.

[fol. 52] And for the record, I also again renew my motion on behalf of defendant Medlin for a separate trial in view of Your Honor's immediate ruling, apart from his co-defendants.

The Court: The motion is overruled. And, frankly, let me just say this, that I'm perfectly willing to say that everybody else makes the same motion if you want to and it would be overruled if you made it and that would clear that in the record. I gave careful consideration, extremely careful consideration, to this question of severance of counts and separate trials. And I did reach the conclusion that I should exercise the discretion vested in me under Rule No. 14 for the protection of the rights of the defendants to order a severance of Count No. One from the remaining counts.

[fol. 53] The Court: If there is nothing further, I am now prepared to set for trial Points 2, 3, 4 and 5, as requested by the Government. I do not think that Mr. Haggerty's statement actually lays a very firm foundation for a postponement by the Court of setting a date for trial. It is, of course, true that if you are successful in your efforts whatever they may be, that might affect it. The Court will always bow to any decision of the Sixth Circuit that it makes in one of its cases, don't know of anything the Court can do otherwise, but I don't think that lays a foundation for not setting a date for the trial.

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[fol. 54]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

Criminal No. 13,383

[Title omitted]

ORDER—July 29, 1963

This case was called for hearing July 22, 1963, on various pre-trial motions filed by the defendants pursuant to leave granted by prior order of the court. The hearing continued for five days and this recitative order is entered to record the various actions of the court on the motions and on other matters which arose during the hearing.

* * * * * * *

[fol. 55] Counsel then proceeded with argument of all remaining motions and parts of motions, those relating to Issue No. 12, whether the movants are entitled to bills of particulars, discovery, or other aid of the court in preparation for trial. These consisted of the portions not previ- [fol. 56] ously heard of the following: * * * the defendant Parks's "Motion for Inspection and Copying Documents, etc., and in the Interests of Justice, for an Order Granting a Hearing To Determine the Illegal Obtainance and Use of Illegal Evidence, and for a Dismissal of the Indictment Therefore," adopted by the defendants Hoffa and Campbell; * * * After argument on the motions for bills of particulars, counsel on both sides indicated they might come to an agreement on the motions for inspection and copying of documents. The court then announced that a [fol. 57] certain sealed envelope submitted to the court during a hearing before the chief judge of this court in the case of *United States* v. *James R. Hoffa,* Criminal No.

[File endorsement omitted]

13,241, had been delivered to this court by the United States Marshal pursuant to an order of Judge Miller on motion of the government. This envelope was referred to in several of the defendants' motions for inspection and copying of documents. The court announced its intention of opening and inspecting the contents of the envelope as suggested in the government's response. Objections to this procedure were interposed on behalf of the defendants Parks, Campbell, Hoffa, Dorfman and Medlin. The court informed counsel that the envelope and the record showed that the envelope had been sealed December 20, 1962, and delivered to the marshal, and that the seal was unbroken when delivered to this court. The court thereupon opened the envelope, inspected the contents, and Ordered that the clerk place the whole thing, including the original envelope in another envelope, and to deliver it to the marshal for safekeeping. Thereupon the court reserved decision on the discovery matters.

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[fol. 58] After all counsel indicated they had nothing further, the court disposed of the remaining matters by holding that:

• • • • • • •

(d) Under Issue No. 12, the motions for bills of particulars were taken under advisement and all other motions and parts of motions pertinent to this issue were Ordered overruled.

After hearing the suggestions, motions and arguments of counsel as to whether and when a trial date should be set, the court Ordered that the case be set for trial October 14, 1963.

Frank Gray, Jr., United States District Judge.

[fol. 59]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

Criminal No. 13,383

UNITED STATES OF AMERICA

vs.

JAMES R. HOFFA, LAWRENCE W. MEDLIN, LARRY CAMPBELL, THOMAS EWING PARKS, ALLEN M. DORFMAN, NICHOLAS J. TWEEL, and EWING KING.

MEMORANDUM—August 29, 1963

* * * * * * *

[fol. 60]

VII

Discovery as to Alleged Misconduct

The court interpreted a number of the motions and parts of motions as efforts to obtain discovery as to possible misconduct by government personnel or grand jurors. This interpretation not only proved accurate as to these particular motions and parts of motions, but also as to others, as indicated earlier.

In addition to disclosure of the grand jury minutes, already discussed separately, the movants sought: (1) a hearing in respect to "illegal surveillance" of the grand jury; (2) a hearing to determine the illegal "obtainance" and use of illegal evidence; and (3) disclosure of the possible existence and purport of any evidence obtained by wiretapping or eavesdropping.

The motion as to "illegal surveillance" was not supported at all, not even by an unsworn statement of counsel that any surveillance, illegal or otherwise, had been conducted.

As to the illegal "obtainance" of evidence, the defendants actually had a limited hearing, in default of government objection, by asking improper questions on cross examination of government witnesses called on other matters. The results were unequivocally negative. The defendants never suggested any basis to justify such an inquiry other than the unworthy suggestion of one counsel that the court [fol. 61] should take judicial notice that wiretapping is a government custom.

As to disclosure of documents or recordings in this connection, counsel suggested only one matter deemed worthy of discussion. This related to the contents of a certain sealed envelope that was passed to Judge Miller during one of the secret hearings in the case of *United States* v. *Hoffa,* Criminal No. 13,241, *supra.* Counsel stated that this envelope was handed to the court in a context that led them to suspect it might contain some record or memorandum of telephone conversations related to the telephone toll records contemporaneously introduced in evidence. Judge Miller ordered the matter in the envelope re-sealed and committed to the custody of the marshal pending further order of the court. It remained there until transferred to this court by order of Judge Miller on motion of the government near the close of these hearings for consideration under Issue 12. Upon examination of the contents, this court ordered the matter resealed and recommitted to the custody of the marshal.

Thus the defendants showed nothing on which to base any discovery as to matters pertinent to any pre-trial motions.

* * * * * * *

[fol. 62]

Frank Gray, Jr., United States District Judge.

[File endorsement omitted]

[fol. 62a]

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

Criminal No. 13,383

[Title omitted]

ORDER OF TRANSFER—December 28, 1963

This case came on for further consideration by the Court of the motions of the respective defendants, which motions were heard upon December 20, 1963. An order, to which reference is here made, has heretofore entered upon December 24, 1963, wherein the pending motions were set forth and wherein, among other matters, action of the Court was expressly reserved upon the motions made upon behalf of the respective defendants for transfer from this District for trial, said motions made under Rule 21(a), Federal Rules of Criminal Procedure. It now appears to the Court that in listing the pending motions on behalf of each defendant, the order of December 24, 1963 failed to list an oral motion made upon behalf of the defendant, Nicholas J. Tweel, at the hearing held upon December 20, 1963 for transfer from the District for trial, said motion made under Rule 21(a), Federal Rules of Criminal Procedure. Having further considered motions made upon behalf of each defendant, including a reconsideration of a motion made upon behalf of the defendant, Lawrence W. Medlin, seeking transfer of this case for trial under Rule 21(a), Federal Rules of Criminal Procedure, and the Court having filed an opinion thereon, this order is entered in accordance with the said opinion and in accordance with the foregoing findings of the Court.

[File endorsement omitted]

[fol. 63] It is accordingly Ordered

(1) That the order on pending motions entered in this cause upon December 24, 1963 be and hereby is amended so as to add the following under pending motions made on behalf of the defendant, Nicholas J. Tweel:

"(c) Oral motion made this date to transfer from District for trial."

(2) That the motions made upon behalf of the defendants, James R. Hoffa, Larry Campbell, Thomas Ewing Parks, Allen Dorfman, Nicholas J. Tweel, and Ewing King, for transfer of further proceedings in this case to another district as may be designated by the Court, said motions made in accordance with Rule 21(a), Federal Rules of Criminal Procedure, be and hereby are sustained.

(3) That the motion heretofore made upon behalf of the defendant, Lawrence W. Medlin, for transfer of further proceedings in this case to another district as may be designated by the Court, said motion having been made in accordance with Rule 21(a), Federal Rules of Criminal Procedure, and having been heretofore overruled by the Court, upon reconsideration by the Court is hereby sustained.

(4) That this cause be and hereby is transferred as to each defendant herein from the United States District Court for the Middle District of Tennessee, Nashville Division, to the United States District Court for the Eastern District of Tennessee, Southern Division, sitting at Chattanooga, Tennessee.

(5) That the clerk prepare and transmit by proper certification, along with a copy of this order, the record in this cause to the United States District Court for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee.

(6) That upon entry of this order a duly certified copy thereof be immediately transmitted to the Clerk for the

[fol. 64] United States District Court for the Eastern District of Tennessee, Southern Division, at Chattanooga for entry in such District and Division.

Enter:

Frank W. Wilson, United States District Judge
[Sitting by Designation].

[fol. 66]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION

Criminal No. 11,989

UNITED STATES OF AMERICA, Plaintiff,

v.

JAMES R. HOFFA, et al., Defendants.

DEFENDANTS' SUPPLEMENTAL MOTION TO DISMISS INDICTMENT FOR DENIAL OF DUE PROCESS—Filed February 12, 1964

Come now the defendants and move the Court for an order dismissing the indictment heretofore filed herein, and for their reasons therefor state as follows:

1. That the evidence adduced in this cause shows that one Edward Partin was subpoenaed by the prosecution before the Grand Jury which returned the indictment, and that upon appearing before the Grand Jury in response to said subpoena, said Edward Partin invoked the self-incrimination provision of the Fifth Amendment to the

[File endorsement omitted]

United States Constitution and stated that answers to the questions propounded to him might incriminate him.

2. That at the time of said appearance and said statement by the witness Partin before the Grand Jury, said Partin was an agent and employee of the United States, and had admittedly previously procured alleged evidence against the defendants by stealth and artifice and by spying upon defendants, counsel, and that he had daily reported the results of his investigation to agents of the United States long prior to his appearance before the Grand Jury.

3. That under such circumstances calling of said witness before the Grand Jury, and the knowing participation in and condonation by the prosecution of the specious in- [fol. 67] voking of the self-incriminating provision of the Fifth Amendment by the witness as aforesaid constituted the sanction, procuring, and employment of perjured testimony before the Grand Jury in obtaining the indictment in this cause.

4. That the action of the prosecution as aforesaid constituted an intentional suppression of evidence before the Grand Jury, and a fraudulent practice designed to prejudice the defendants and to procure the indictment against them, all in violation of the defendants' constitutional rights to due process of law at every stage of a criminal proceeding, under the Fifth Amendment to the United States Constitution, and that the indictment procured thereby is illegally tainted and must be vitiated.

Harry Berke, Atty.

[fol. 68]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

MOTION TO DISMISS INDICTMENT—Filed February 14, 1964

And now comes James R. Hoffa, by his counsel, and moves that the indictment in the above matter be dismissed since evidence was secured by interceptions and divulgences of telephone recordings between James R. Hoffa and other persons, of which recordings and notes of said conversations and recordings were used by the government in this case contrary to law. James R. Hoffa demands an immediate hearing on this motion.

Respectfully submitted,

Harry Berke, James E. Haggerty, Sr., Attorney for Defendant Hoffa.

February 14, 1964

[File endorsement omitted]

[fol. 69]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

MOTION OF DEFENDANT JAMES R. HOFFA TO STRIKE CERTAIN EVIDENCE—Filed February 14, 1964

I.

Now Comes the Defendant James R. Hoffa, and respectfully moves the Court to Strike the following testimony for all the grounds and reasons advanced during the trial, and without limiting the generality of the foregoing, moves to strike the following testimony for the reasons set out below:

Testimony of Andrew H. Mizell that before the Nashville Trial terminated on December 23, 1962, jurors Mrs. James Paschal and Gratin Fields were excused, and, testimony that James C. Tippens was excused before the jury was sworn, all for the reason that this testimony is immaterial as well as highly prejudicial to the Defendants in this case, and does not tend to prove or disprove any of the allegations of the indictment.

II.

All of the testimony of Mrs. Josephine Carlton because it relates to Count Two and is hearsay and wholly immaterial to any of the Counts relating to the defendants and there has been no showing of any connection between such testimony under Count Two and the defendants.

III.

All of the testimony of James C. Tippens for the same reasons as stated hereinabove in paragraph II.

[File endorsement omitted]

IV.

All of the testimony of the witness James T. Walker because said testimony constitutes hearsay, and there has been no connection shown between such testimony and this defendant under Count Three, and for the further reason that there was no showing of any unlawful confederation [fol. 70] between defendants Hoffa and Parks, so that said evidence cannot be binding on this defendant.

V.

The testimony of Carl Edward Fields because such testimony is not in any manner connected to this defendant and Count Three, and is hearsay, and for the additional reasons set out in paragraph IV hereinabove.

VI.

The testimony of Mrs. Mattie Leath because it is not in any way connected with this defendant and Count Three and for the further reason that it is hearsay insofar as it related to conversations with the witness Walker, who was neither alleged nor proved to be an agent of the defendant Parks, and for the additional reasons set out in paragraph IV hereinabove.

VII.

The testimony of special agent William L. Sheets because of the refusal of the Court to permit examination of this witness by the defendant to determine the existence of reports to which defendant would be entitled under Title 18, United States Code, section 3500.

VIII.

The testimony of Walter J. Sheridan for the reasons set out hereinabove in paragraph VII.

IX.

The testimony of Mattie Mix because of the Court's deprivation of the right of the witness to assert her privilege under the Fifth Amendment and the Constitution of the United States and for the further reason that none of the testimony of this witness is in any way connected up with this defendant.

X.

The testimony of Madie Harris because it has no probative value with respect to any Count of the Indictment, and does not tend to prove or disprove the allegations of any Count of the indictment.

XI.

The testimony of Niles Kitchen and the Exhibits which were introduced in connection with such testimony because of failure to lay a proper foundation for such testimony and [fol. 71] Exhibits, and for the further reason that said evidence was irrelevant and immaterial to any of the issues in this case, and constitutes hearsay.

XII.

The testimony of Anna Brown because it constitutes hearsay and has no relevance to any of the issues in the case and is not in any way connected up with this defendant.

XIII.

The testimony of Ernestine Williams for the reasons set out in paragraph XII hereinabove.

XIV.

The testimony of J. J. Isaacs because of lack of proper foundation for the telephone records which he introduced as evidence and because said evidence constitutes hearsay,

and because of the lack of relevance of such records to any of the issues involving this defendant.

XV.

The testimony of the witness Arthur Schnider and the exhibits which were introduced through him for the reason that no proper foundation was laid for the introduction of the telephone records and for the further reason that such records constitute hearsay and have no relevancy to this defendant.

XVI.

The testimony of Carol Pettijohn for the reason that it has no relevancy to nor is in any way connected with this defendant and constitutes hearsay as to this defendant.

XVII.

The testimony of Helen Rippey for the same reasons stated hereinabove in paragraph XVI.

XVIII.

The testimony of Hazel Fulton because it has no relevancy to any count involving this defendant nor has it been connected up with this defendant, and constitutes hearsay as to this defendant.

[fol. 72]

XIX.

The testimony of Mrs. Mary E. Meyers and the Exhibits introduced through Mrs. Meyers for the reason that no proper foundation was laid for the telephone calls and because of a lack of relevancy of any such calls to this defendant, and it constitutes hearsay as to this defendant.

XX.

The testimony of Richard Chichester and the Exhibits which were introduced through him for the reason that a

proper foundation was not laid for the telephone records and for the further reason that none of such testimony has been connected up with this defendant, and constitutes hearsay as to this defendant.

XXI.

The testimony of Frank S. Tulloss, Jr., for the reasons set out hereinabove in paragraph XX.

XXII.

The testimony of Robert Ray and Government Exhibit 84 which was introduced through him for the reason that there is no relevancy of that Exhibit to any material issue in the case, and said Exhibit only to prejudice the minds of the jurors against this defendant.

XXIII.

The testimony of William M. Hobbs, Jr. because his testimony with respect to the surveillance of the Defendant King has not been connected up with this defendant.

XXIV.

The testimony of J. Charles Still for the reason that his testimony of the surveillance of the defendant King has not been connected up with the defendant. Also the Government's exhibit No. 86 introduced through Mr. Still which was offered for the purpose of identifying that a man walking with defendant Hoffa was the man with whom defendant King traded cars the night of the surveillance should be stricken for the further reason that it is highly prejudicial and not relevant to any issue herein.

[fol. 73]

XXV.

The testimony of Willis S. Turner, Francis W. Norwood, Walt L. Walsh, and Marvin Eubanks for the reason that his testimony with respect to the surveillance of the De-

fendant King has no relevance to and has not been connected up with this defendant.

XXVI.

The testimony of Oscar Pitts for the reason that such testimony has no relevance to any of the issues herein and has not been connected up with this defendant, and constitutes hearsay as to this defendant.

XXVIII.

The testimony of Joe Edward Zimmerle and Edwin E. O'Brien for the reason that said testimony is not material nor relevant to this defendant, and constitutes hearsay as to this defendant.

XXIX.

The testimony of Joe Rudis and Government's Exhibit No. 93 and introduced through the witness because it is not relevant and has not been connected up with this defendant.

XXX.

The testimony of Edward G. Partin for the following reasons:

(A) All of the reasons set forth in the Motion to Suppress said witness' testimony previously filed with the Court.

(B) Because of the improper limitation of cross-examination of said witness by the defendants, and particularly relating to the matters disclosed in the secret session.

(C) Because of the refusal of the Court to turn over to the defendants the notes and memoranda of agent Walter J. Sheridan which were taken contemporaneously with Mr. Partin's admitted reports to Mr. Sheridan and which fall within the provisions of the Jencks Act.

(D) Because of the witness' evasive, non-responsive and highly improper answers as well as his refusals to answer,

and the failure of the Court to properly direct the witness and reprimand him for his demeanor, evasiveness and equivocation on the stand.

[fol. 74] (E) Because of the refusal of the Court to turn over to the defendant the F.B.I. statements which were based upon agent Walter Sheridan's reports which were in turn based upon interviews with the witness Edward G. Partin.

XXXI.

The testimony of Cecil Gallaspy and Martin J. Gillen and the exhibits introduced through them because no proper foundation has been laid for such exhibits and because they are not relevant or connected up with this defendant, and constitutes hearsay as to this defendant.

XXXII.

The testimony of Hazel Fulton, James T. Walker, Carl Fields, Jr., James Paschal, Oscar Pitts and Edward G. Partin for the reason that all of said witnesses admitted and confessed in open Court making false statements under oath and committing perjury.

XXXIII.

All of the testimony of witnesses Kitchen, Isaacs, Schneider, Mrs. Meyers, Chichester, Tulloss, Gallaspy, and Gillen for the reason that neither the registration of a telephone number in a defendant's name or the assignment of a particular credit card number to a defendant has any materiality or competency with respect to whether or not that defendant did in fact make or receive a telephone call.

James E. Haggerty Sr., Harry Berke, Attorneys for Defendant Hoffa.

[fol. 75]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

MOTION OF DEFENDANT LARRY CAMPBELL TO STRIKE CERTAIN EVIDENCE—Filed February 14, 1964

Comes Now Defendant Larry Campbell and incorporates by reference each and every allegation of the Motion of Defendant James R. Hoffa to Strike Certain Evidence as if set out verbatim herein.

Cecil Branstetter, Attorney for Defendant Larry Campbell.

[File endorsement omitted]

[fol. 76]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

MOTION OF DEFENDANT THOMAS EWING PARKS TO STRIKE CERTAIN EVIDENCE—Filed February 14, 1964

Comes Now Defendant Thomas Ewing Parks and incorporates by reference each and every allegation of the Mo-

[File endorsement omitted]

tion of Defendant James R. Hoffa to Strike Certain Evidence as if set out verbatim herein.

J. M. Schiffer, Attorney to Defendant Thomas Ewing Parks.

[fol. 77]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

MOTION OF DEFENDANT EWING KING TO STRIKE CERTAIN EVIDENCE—Filed February 14, 1964

Comes Now Defendant Ewing King and incorporates by reference each and every allegation of the Motion of Defendant James R. Hoffa to Strike Certain Evidence as if set out verbatim herein.

H. E. Brown, Attorney for Defendant Ewing King.

[File endorsement omitted]

[fol. 78]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

ORDER—Filed February 15, 1964

This cause is before the Court upon motions for judgments of acquittal filed and argued on behalf of each de-

[File endorsement omitted]

fendant upon February 14, 1964. Having now considered the motions and the oral arguments of counsel and having further considered the briefs filed with respect to said motions, the Court is of the opinion that the said motions should each be overruled with the exception of the motion made on behalf of the defendant, James R. Hoffa, with respect to the second count of the indictment. The Court is of the opinion that the evidence of any connection of the defendant, James R. Hoffa, with the matters charged in the second count of the indictment is insufficient to warrant submitting the said second count unto the jury with respect to the said defendant. The motion for judgment of acquittal on behalf of the defendant, James R. Hoffa, upon all other counts, as well as the motions for acquittal on behalf of all other defendants, should be overruled.

It is therefore Ordered that a judgment of acquittal be entered as to the defendant, James R. Hoffa, only, upon the second count of the indictment in this cause only.

It is Further Ordered that all motions for judgments of acquittal made on behalf of all defendants as to Counts [fol. 79] Three, Four and Five of the indictment in this cause be and hereby are overruled.

Enter:

Frank W. Wilson, United States District Judge.

[fol. 80]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

No. 11,989

[Title omitted]

MOTION FOR RELIEF FROM SUBPOENA TO PRODUCE DOCUMENTS AND OBJECTS—
Filed February 17, 1964

Now into Court, through undersigned counsel, comes Sargent Pitcher, a resident of Baton Rouge, Louisiana, and respectfully suggests to this Honorable Court:

1.

That on Friday, February 14, 1964, at or about the hour of 1:00 o'clock P. M., mover was served with a copy of a subpoena to produce documents in the captioned proceedings. Said subpoena was served on mover at his office in the City of Baton Rouge, State of Louisiana, by an individual who identified himself as Phillip A. Gillis, Attorney of Detroit, Michigan. That a photographic copy of the said subpoena is attached hereto, made a part hereof and marked Exhibit "A" for identification.

2.

That mover is the duly elected and acting District Attorney of the Parish of East Baton Rouge, State of Louisiana, and is at this time personally and fully engaged in the prosecution of a capital case, "State of Louisiana vs. Leon Brent", No. 47,224 on the Docket of the Criminal Court of the Nineteenth Judicial District, Parish of East Baton Rouge, State of Louisiana, and will be so engaged [fol. 81] for some time in the future. That in view of the

[File endorsement omitted]

gravity of this matter, it is obvious that mover will be unable to attend Court elsewhere until the completion of that case.

3.

That even though mover will be unable to appear in the foreseeable future in connection with the matters referred to in the subpoena in question, nevertheless, he is extremely anxious to assist this Court in the development of all proper and legal evidence pertinent to the captioned case. Therefore, mover suggests that he can and will make available any and all evidence in the possession of his office which might be required, by transmitting the same through his Chief Administrative Assistant, Mr. William H. Daniels. That the said Mr. Daniels had actual charge of the development of all the matters bearing on this case and would, therefore, be in a better position than mover to comply with a subpoena such as Exhibit "A".

4.

That although mover has no hesitancy in furnishing the Court with any evidence which it desires, nevertheless, it directs the Court's attention to the extremely broad, indefinite and general nature of the subject subpoena. It is quite obvious, that this subpoena is in large part, a mere fishing expedition and should be restricted and modified before reissuance thereof.

5.

That, to be more specific, the said Edward G. Partin, is and has for a number of years been an official of a labor union operating in the State of Louisiana, Parish of East Baton Rouge, which union is one of the largest and most active in this area. That to extract "all records of arrest, local state and federal, reports and investigation files regarding Edward G. Partin" as requested by this subpoena

would involve an extensive search of all files in the office of the District Attorney of this Parish and the transmittal of a large volume of information, practically all of which would be irrelevant to the captioned case, a great distance and at a great expense.

[fol. 82] 6.

That the reissuance of a subpoena in the manner and under the wording of that described as Exhibit "A", would be improper and constitute an abuse of process since it would unnecessarily impede and harass the administration of justice both in the State of Tennessee and the State of Louisiana. That this Honorable Court should direct the attorneys for the defendants in the above captioned case to be specific in their request for documents and objects and to restrict the same to those which are pertinent to the captioned case.

Wherefore, mover prays that this motion be granted and that the subpoena issued to mover on February 14, 1964, and more fully identified in Exhibit "A" of this motion, be modified accordingly.

Mover further prays that the attorneys for the defendant in the captioned proceedings, be ordered and directed by this Honorable Court to restrict any future subpoenas which might be directed to mover or any member of his staff or office, to matters strictly pertinent to the captioned case and to specify the documents and objects which they desire to have produced.

In Proper Person: Sargent Pitcher, W. M. Shaw, Attorney for Mover, Sargent Pitcher, P. O. Drawer 420, Homer, Louisiana.

[fol. 83]

EXHIBIT A TO MOTION FOR RELIEF

Subpoena to Produce Document or Object

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

No. 11,898

UNITED STATES OF AMERICA

v.

JAMES R. HOFFA, et al.

To Sargent Pitcher, Room 201, Court House Building, Baton Rouge, Louisiana

You are hereby commanded to appear in the United States District Court for the Eastern District of Tennessee at Federal Building (Court House) in the city of Chattanooga on the 17th day of February, 1964 at 1:30 o'clock P.M. to testify in the case of United States v. James R. Hoffa, et al and bring with you

See Attached.

This subpoena is issued upon application of the[1] Defendants.

February 13, 1964.

JAMES E. HAGGERTY, SR.
Attorney for James R. Hoffa, Defendant
Address Hotel Patten, Chattanooga, Tennessee

/s/ KARL D. SAULPAW, JR., *Clerk.*
By /s/ HATTIE SAULPAW, *Deputy Clerk.*

[1] Insert "United States," or "defendant" as the case may be.

[fol. 84]

STATEMENT ATTACHED TO SUBPOENA DUCES TECUM DATED FEBRUARY 13, 1964 TO SARGENT PITCHER, ROOM 201, COURT HOUSE BUILDING, BATON ROUGE, LOUISIANA

AND BRING WITH YOU: any and all written statements made by Edward G. Partin to you or to any of your subordinates, either unsigned or signed or otherwise adopted or approved by Edward G. Partin; produce all notes, memoranda and reports in connection with your investigations of and interviews with Edward G. Partin during the years 1962 and 1963; produce all notes, memos, reports and recordings of meetings with Edward G. Partin and others from August, 1962 to date, but more specifically during the months September, October, November and December, 1962; produce any and all stenographic, mechanical, electrical or other recordings and all transcriptions thereof which are substantially verbatim recitals of any oral statements or interviews made by Edward G. Partin to you, Mr. Grimsley, Mr. William Daniels and Mr. Peter Duffy, recorded and/or recorded contemporaneously with the making of such oral statements or interviews; and produce telephonic statements, recordings, tapes or recording discs, or other recordings, such as wire, etc.; and bring any electronic equipment, electronic recording and induction equipment used by you or by any of your subordinates, more particularly Mr. William Daniels, used to record telephone conversations between Edward G. Partin and James R. Hoffa during the months of September and October, 1962; and bring all recordings and tapes and transcriptions of such phone conversations, recordings, tapes, memoranda and reports relating to or concerning such phone conversations; and all records of arrests, local, state and federal, reports and investigations file regarding Edward G. Partin.

[fol. 85]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DISTRICT

Criminal No. 11,989

[Title omitted]

MOTION TO SUPPRESS EVIDENCE—Filed February 17, 1964

James R. Hoffa, by his counsel moves that all evidence which was secured directly or indirectly by interceptions and divulgences of telephone conversations and listening to the telephone recordings of these conversations between James R. Hoffa and other persons, that were used by the Government in this case be suppressed. Furthermore, James R. Hoffa, by his counsel, moves that no questions of any defendant in this case or any of the defendants' witnesses based on information received directly or indirectly as a result of unlawful interceptions and divulgences of their telephone conversations be asked by Government counsel. James R. Hoffa demands an immediate hearing, as required by law on this motion.

Respectfully submitted,

James E. Haggerty, Sr., Attorney for the Defendant.

February 17, 1964.

[File endorsement omitted]

[fol. 86]

ATTACHMENT TO MOTION TO SUPPRESS EVIDENCE

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal Case No. 11,989

UNITED STATES OF AMERICA, Plaintiff,

v.

JAMES R. HOFFA, et al., Defendants.

AFFIDAVIT AND MEMORANDUM OF INTERVIEW BY WILLIAM F. BUFALINO OF WILLIAM H. DANIELS

William E. Bufalino, after being first duly sworn, makes oath as follows:

That William H. Daniels has been subpoenaed to testify for the defense in the above-entitled cause;

That the said William H. Daniels is scheduled to appear to testify at 1:30 o'clock in the afternoon on Monday, the 17th day of February, 1964;

That affiant interviewed William Daniels on Thursday, the 13th day of February, 1964 at approximately 4:20 o'clock in the afternoon in the courtroom of the Honorable Frank Wilson; that during that interview, Mr. Daniels disclosed information as follows:

1. That his office telephone number is DI 4-1555, area code 504 and that his home telephone number is DI 8-2221, area code 504;

2. That he had not discussed the case with government officials nor had he read any of the transcripts

of the case; that the only information that was in his possession had reached him via the newspapers and other news media and in those ways he learned that the manner in which he was apparently involved in this case was that he was supposed to be the person who arranged the meeting between Edward G. Partin and the government agents; and

3. That he also stated that he learned via the newspapers and other news media that he was supposed to be the individual who met with Partin and Grimsley (Grimsley representing the federal government;

That William Daniels then informed affiant that he does [fol. 87] know the truth to be as follows:

1. That he knows how meetings were arranged;

2. That he knows why the meetings were arranged;

3. That he knows when the meetings took place; and

4. That he knows the purpose of the meetings;

That Mr. Daniels informed affiant that he had "made recordations and tapes of telephone conversations between Edward G. Partin and James Hoffa;" that the telephone conversations between Partin and Hoffa were recorded by Daniels in late September or early October, 1962; that, although he, Daniels, did not at this time recall the exact date, he would ascertain the time and advise affiant next Monday or Tuesday of the exact dates;

That Mr. Daniels informed affiant that he had made recordings on more than one occasion, the second recording taking place a few days after the first recording; that one of the dates of the recordings might be the 18th day of October, 1962, but he was not certain and promised affiant to tell him the correct dates when he returned "next week;"

That Mr. Daniels informed affiant that on each occasion the day after he made the recordings he turned them over to Sargent Pitcher, his superior;

That at this point of the interview, affiant requested Mr. Daniels to show him the subpoena which was served upon him; that Mr. Daniels stated that the subpoena was in his briefcase in his office upstairs and that it would take a few minutes to go up and get it;

That this interview was taking place in Judge Wilson's courtroom at the table which affiant had in the corner;

That during the course of the interview, Attorney Harvey Silets and Attorney Jacob Kossman and others were near the government's table talking with government representatives, which included James Durkin and John Cassidy;

[fol. 88] That Mr. Daniels left the courtroom through the door near the jury box;

That affiant observed, during the early part of the interview, that Mr. Cassidy looked over in our direction on more than one occasion; that as Mr. Daniels left the courtroom to go upstairs for his subpoena, affiant noticed that Mr. Cassidy whispered to James Durkin, who then made his exit through the same door;

That approximately five minutes later, Mr. Daniels returned with his subpoena and affiant continued to interview Mr. Daniels, furnishing the following additional information:

1. That his job classification is Administrative Assistant to the District Attorney, 19th Judicial District for the State of Louisiana;

2. That Sargent Pitcher is the District Attorney for the 19th Judicial District for the State of Louisiana;

3. That the mailing address of Sargent Pitcher is Room 201, Courthouse Building, Baton Rouge, Louisiana;

4. That the telephone numbers of Sargent Pitcher are DI 2-5550 (home) and DI 4-1555 (office);

5. That Edward G. Partin and William Daniels met at the Holiday Inn Motel in Baton Rouge where Partin stayed;

6. That he, Daniels, made at least one recording from that telephone at the Holiday Inn Motel in Baton Rouge, Louisiana;

7. That Daniels further informed affiant that he has participated in several investigations of Edward G. Partin; that Sargent Pitcher does have a file on Edward G. Partin;

8. That Daniels informed affiant that there was a strike at the Louisiana Creameries some time in the early part of 1963, and that it is his recollection that there was a grand jury called around that time;

9. That Daniels stated to affiant that he would ascertain the exact dates when the grand jury was being held, particularly, with reference to the early part of 1963; and

10. That Daniels stated to affiant, "Your people already have that information. I think Jackson and Hess already have that information;"

[fol. 89] That affiant requested that Mr. Daniels inform himself as to the exact dates of the grand jury in progress, particularly, the one involved in the set of facts where one of the owners was supposed to have come out with some strikebreakers where there was some kind of trouble; that individuals were subpoenaed; and as a result of that grand jury investigation, Partin was indicted;

That affiant again reminded Mr. Daniels that the grand jury investigation was around the 7th to the 10th of January, 1963; that Mr. Daniels assured affiant that he would get the information for him;

That Mr. Daniels informed affiant that the means and methods which Daniels used to make taped recordations of

the telephone conversations between Partin and Hoffa were by a mechanical device—he described it as an induction coil on the receiver;

That affiant requested Daniels to bring in the contraption or the recording device and the recordings, records and tapes, and Daniels informed affiant that he had the recording device and that he would "bring it next week" but that the recordings and tapes were in the possession of his superior, Sargent Pitcher;

That Mr. Daniels informed affiant that upon his return to Baton Rouge over the weekend, he would meet with Sargent Pitcher; and in addition to discussing the matter with Sargent Pitcher, Mr. Daniels would advise Sargent Pitcher that affiant wanted him to produce the tapes, recordings, records, recordations, memoranda and whatever other notes or papers or records he may have whether they were made by him or by any of his subordinates, or any other records, tapes, memoranda, etc. which he might be holding as custodian;

That Mr. Daniels assured affiant that he would, if he was able to obtain any of the subject matter requested from Mr. Pitcher or from any one else, he would bring it in to Court in response to the subpoena;

[fol. 90] That Mr. Daniels advised Affiant that he was positive that he had made at least one recording at the Holiday Inn Motel and the second recording was made from another motel, which name escaped him at the moment, but that he would have the information for Affiant the following Tuesday, 18 February 1964;

That Mr. Daniels further informed Affiant that there was a meeting in the office of Sargent Pitcher, the District Attorney for the 19th Judicial District for the State of Louisiana, said meeting taking place in the latter part of September or the early part of October, 1962; that present at that meeting *in the latter part of September or the early part of October, 1962* were the following persons:

(1) Mr. Grimsley, representative of the United States Federal Government;

(2) Mr. Peter Duffy, Assistant United States District Attorney, from New Orleans;

(3) Edward G. Partin;

(4) Mr. Sargent Pitcher, District Attorney for the 19th Judicial District, for the State of Louisiana; and

(5) Mr. William Daniels, Administrative Assistant to the District Attorney, 19th Judicial District, State of Louisiana.

That Affiant asked Mr. Daniels whether notes or memoranda were made during the meeting and Mr. Daniels replied, "Not by me."; that Affiant asked Mr. Daniels if any of the other persons made notes and Mr. Daniels replied, "I would rather not answer that."; that Affiant then asked Mr. Daniels whether or not this meeting was electronically recorded and Mr. Daniels replied, "Some parts were recorded on tapes, but not by me.";

That at this point one of the secretaries for the United States Attorney came up to where Affiant and Mr. Daniels were talking and the girl approached Mr. Daniels and asked, "Could you come to the telephone?"; that Affiant asked Mr. Daniels for the name of the girl and Mr. Daniels stated, [fol. 91] "Her name is Margo."; That Affiant requested Mr. Daniels to stay a few more minutes, that our interview would not take too long and he agreed, but someone on the other side of the court room signaled him and with that, Mr. Daniels said, "I must take that call."; that at 4:50 p.m., as Mr. Daniels left the side door of the court room, he went into the United States Attorney's office; this, Affiant learned because of the fact that Affiant went out of the side door of the court room and asked Attorney Frank Ragano and Attorney Morris Shenker to observe where Mr. Daniels had gone and they informed Affiant that Mr. Daniels had gone into the United States Attorney's office,

and that a moment later Mr. John Cassidy went into the same office of the United States Attorney;

That after having waited some time, Affiant advised Mr. Harry Berke, Attorney for Defendant James R. Hoffa, that Affiant felt that his investigation was being surveilled and interfered with by persons connected with the office of the United States Attorney; that Mr. Berke and Affiant informed Marshal Mansfield to this effect and the Marshal went into the office of the United States Attorney and when he came out, he stated that Mr. Daniels was on the phone;

Affiant waited outside the office of the United States Attorney and through the glass was able to recognize what he believed to be the shadows of Mr. Cassidy, "Margo," and two other persons, one looked like Walter Sheridan and the other looked like Attorney Lewin;

At that time one of the female employees of the United States Attorney's office, whose name Affiant believes to be Carol Ash, had come out of the office for about two minutes and when she returned, got into the group which was standing inside the door and she pointed outside, apparently informed them that Affiant was outside the door; with that "Margo," making a gesture, left the group going toward the door and she stepped outside to observe what was going on;

[fol. 92] That Attorney Berke and Affiant then decided to advise Judge Wilson, who was still in his office, as to what was going on, but as Attorney Berke and Affiant approached the office of Judge Wilson, Mr. Daniels came out and appeared to be very much disturbed.

Affiant asked Mr. Daniels:

(1) Was there a phone call?—to which Mr. Daniels responded that there was.

(2) Affiant asked Mr. Daniels if there was a long distance call, and Mr. Daniels said that it was.

Mr. Daniels informed Affiant that it was a long distance call and that he had "just talked to Sargent Pitcher," but

after this Mr. Daniels refused to make any further statement or have any discussion with Affiant; that while Mr. Daniels and Affiant were in the hall, Affiant again requested Mr. Daniels to bring with him the tapes and recordings and recording equipment as Mr. Daniels had earlier agreed; at that time Mr. Daniels stated in the presence of Mr. Berke, *"I'll bring them if this subpoena is okay.";*

That Affiant asked Mr. Daniels if "there was any question about its being okay;" that Attorney Berke stated to Mr. Daniels, "After all, you have not been released from this subpoena.";

Affiant reminded Mr. Daniels that he had just given him a check, No. 1100 dated the 13th day of February, 1964, and that he had given him that for travel expense and witness fee; Affiant asked Mr. Daniels if he could use the subpoena already served upon Mr. Daniels to make another subpoena in order that we could be certain that he would be responsive as per his agreement, which subpoena would contain the additional requested information and electronic devices and tapes or recordings, etc.;

Whereupon, Affiant wrote a subpoena in longhand and requested Attorney Berke to sign the subpoena; Attorney Berke thereupon signed the subpoena in the presence of [fol. 93] Mr. Daniels and Affiant and he served that subpoena on Mr. Daniels; that Mr. Daniels then stated that he would comply with the subpoena—that he would go back to Baton Rouge and obtain the information and subpoenaed matters and return Monday, 17 February 1964 at 1:30 p.m.

The foregoing is a memorandum of an interview as heretofore described, and is true and correct to the best of Affiant's knowledge and belief.

Further Affiant sayeth not.

William E. Bufalino, Affiant.

State of Tennessee,
County of Hamilton, ss:

Subscribed and sworn to before me, a Notary Public in and for the County of Hamilton in the State of Tennessee, this 17th day of February, 1964.

Karl D. Saulpaw, Jr., Clerk, Hattie Saulpaw, Deputy.

(Seal)

Feb. 17, 1964.

[fol. 94]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

MOTION TO SUPPRESS EVIDENCE—Filed February 17, 1964

Thomas Ewing Parks, by his counsel moves that all evidence which was secured directly or indirectly by interceptions and divulgences of telephone conversations and listening to the telephone recordings of these conversations between James R. Hoffa and/or any other defendant and other persons, that were used by the Government in this case be suppressed. Furthermore, Thomas Ewing Parks, by his counsel, moves that no questions of any defendant in this case or any of the defendant's witnesses based on information received directly or indirectly as a result of unlawful interceptions and divulgences of their telephone conversations be asked by Government counsel. Thomas Ewing Parks demands an immediate hearing, as required by law on this motion.

Respectfully submitted,

J. M. Schiffer, Attorney for the Defendant: Thomas Ewing Parks.

February 17, 1964

[File endorsement omitted]

[fol. 95]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

MOTION TO SUPPRESS EVIDENCE—Filed February 17, 1964

Ewing King, by his counsel, moves that all evidence which was secured directly or indirectly by interceptions and divulgences of telephone conversations and listening to the telephone recordings of these conversations between James R. Hoffa and/or any other defendant and other persons, that were used by the Government in this case be suppressed. Furthermore, Ewing King, by his counsel, moves that no questions of any defendant in this case or any of the defendant's witnesses based on information received directly or indirectly as a result of unlawful interceptions and divulgences of their telephone conversations be asked by Government counsel. Ewing King demands an immediate hearing, as required by law on this motion.

Respectfully submitted,

H. E. Brown, Attorney for the Defendant: Ewing King.

February 17, 1964

[File endorsement omitted]

[fol. 95a]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

GOVERNMENT'S MEMORANDUM OF LAW ON THE APPLICABILITY OF 18 U.S.C. 3500 TO TRANSCRIPTS OR RECORDINGS OF TELEPHONE CONVERSATIONS BETWEEN A GOVERNMENT WITNESS AND A DEFENDANT TAKEN WITH THE CONSENT OF THE WITNESS BY STATE LAW-ENFORCEMENT OFFICIALS—Filed February 17, 1964

Question Presented

Are transcripts and recordings of telephone conversations between Government witness Partin and defendant Hoffa, made with the consent of Partin, producible at this trial under 18 U.S.C. 3500?

Argument

As the attached affidavits of Edward Grady Partin and William H. Daniels demonstrate, certain telephone conversations placed on October 8 and October 18, 1962, by Partin to the defendant Hoffa were recorded when made by Mr. Partin at the instruction of Mr. Daniels of the local District Attorney's office. Thereafter, the recordings and transcripts were given to agents of the United States by the law enforcement officials of the State of Louisiana to whom Partin had given the recordings. Under these circumstances, it is the Government's position that neither the transcripts, which were submitted to the Court during

[File endorsement omitted]

the session of February 10, 1964 (Transcript page 2041), and were then ordered sealed (Transcript page 2048), nor such copies of the recordings as are in the possession of the Government are subject to production under 18 U.S.C., Section 3500.

[fol. 95b] 1. In the first place, it should be observed that these recordings were not made or divulged in violation of any federal law. Although the defendants have contended that these recordings consisted of interceptions of telephone communications within the meaning of Section 605 of the Federal Communications Act, 47 U.S.C., Section 605, this contention is totally without merit. Section 605 specifically provides that "no person *not being authorized by the sender* shall intercept any communication and divulge and publish the evidence, contents, substance, purport, effect, or meaning of such intercepted communication to any person." (Emphasis added.) In these instances, the "sender," who was Mr. Partin, authorized the attachment of the recording device to his telephone receiver, and he himself had the recordings made. Consequently, the recording was made with the authorization of the sender, and no interception was involved. Since such authorization was granted, there is no occasion even to reach the issue upon which two Justices of the Supreme Court dissented in *Rathbun* v. *United States,* 355 U.S. 107 (1957). In the *Rathbun* case, the issue was whether the consent of the *receiver* to the monitoring of a telephone conversation made to him by another fell within the scope of the statute. The majority of the Court there observed, "it has been conceded by those who believe the conduct here violates Section 605 that either party may record the conversation and publish it." That is precisely what happened here.

2. The recordings or transcripts of these telephone conversations are not subject to production under the Jencks Act because they do not, in any form or manner, constitute "statements" by "a Government witness" or "a prospec-[fol. 95c] tive Government witness" within the meaning of

the Act. Obviously to the extent that the recordings and transcripts reflect declarations made by the defendant Hoffa, who is one party to the conversation, they are not producible under 18 U.S.C. 3500. Subsection (a) expressly limits the Act's coverage to statements by witnesses "other than the defendant." And the defendant is patently not "a Government witness" or "a prospective Government witness."

Nor are the recordings or their transcripts statements of the witness Partin within the meaning of 18 U.S.C. 3500. Subsection (e) of the Act comprehensively defines statements which are subject to production. The recordings are clearly not written statements within the meaning of Subsection (e)(1). Nor are the transcripts, which have never been shown to the witness or adopted by him, within the scope of Subsection (e)(1). Subsection (e)(2) would cover recordings or statements made by a Government witness "to an agent of the Government." The recordings in the present case, however, reflect statements made by the witness Partin not "to an agent of the Government," but to the defendant Hoffa. It is only because law enforcement officials of the State of Louisiana were permitted by the witness to overhear his conversation with the defendant that there is any record in existence whatever of these conversations. This evidence, however, is no more a statement of the witness "to an agent of the Government" than would be a letter which the witness might have sent to a defendant while retaining a carbon copy for his files. If the witness voluntarily gave the copy to the Government or to State law enforcement officials, it would not become a Jencks Act "statement."

[fol. 95d] Moreover, if the statements made by the witness during these conversations were producible under the Jencks Act, the Court would nonetheless be required by 18 U.S.C. 3500(c) to "excise" all statements made during these conversations by the defendant Hoffa. This would leave only one side of the conversation—a further indica-

tion that evidence of this sort is not intended to fall under 18 U.S.C. 3500.

Respectfully submitted,

J. H. Reddy, U. S. Attorney; John J. Hooker, James F. Neal, Special Attorneys.

[fol. 95e]

AFFIDAVIT TO GOVERNMENT'S MEMORANDUM

I, William H. Daniels, being first duly sworn, depose and say:

1. That I am employed by the office of the District Attorney of Baton Rouge Parish, Louisiana.

2. That in the course of my duties, I was authorized by Edward Grady Partin to instruct him in the use of and attachment to his telephone of a recording device on the occasions of his calls to James R. Hoffa on the morning of October 8, 1962 and the morning of October 18, 1962, and that the said Edward Grady Partin actually operated the device whereby these calls were recorded and the tapes turned over to me.

3. That the above calls were placed from rooms in the Holiday Inn Motel in Baton Rouge, Louisiana to Washington, D.C., and to Newark, New Jersey.

4. That I furnished copies of these recordings to agents of the Department of Justice.

William H. Daniels

Sworn and subscribed to before me this 2-17-64 day of February 1964.

Bertha D. Morgan, Deputy Clerk, U. S. District Court, Eastern District of Tennessee, Southern Division.

(Seal)

[fol. 95f]

AFFIDAVIT TO GOVERNMENT'S MEMORANDUM

I, Edward Grady Partin, being first duly sworn, depose and say:

1. That in or about the month of October 1962, I placed two telephone calls from the Holiday Inn Motel in Baton Rouge, Louisiana to James R. Hoffa, a defendant in this case.

2. That the first of these calls was placed to defendant Hoffa in Washington, D. C. The second of these calls was placed to the defendant Hoffa at the Essex House in Newark, New Jersey.

3. That on both of these occasions, I recorded these conversations by use of a device on my receiver given to me by William H. Daniels of the District Attorney's office in the Parish of Baton Rouge, Louisiana. I then gave the recordings to Mr. Daniels and authorized him to make such use of the recordings as he saw necessary in the execution of his duties, including divulgence of the same.

Edward Grady Partin

Sworn and subscribed to before me this 17th day of February 1964.

Frances T. Gardenhisi, Deputy Clerk.

(Seal)

[fol. 96]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION

Criminal Case No. 11,989

[Title omitted]

MOTION TO SUPPRESS EVIDENCE—Filed February 18, 1964

James R. Hoffa, by his counsel, moves that all evidence which was secured directly or indirectly by "bugging" of rooms, offices or conversations between him and any other defendants or between him and Mr. Partin or between him and any other witnesses for the government be suppressed. James R. Hoffa, by his counsel, further moves to suppress any and all electronic interceptions of any conversation that he may have had in reference to that case that are now, or have been in the possession of the government.

James R. Hoffa, by his counsel, further moves to suppress all evidence which was secured directly or indirectly by interceptions and divulgence of telephone conversations and listening to the telephonic recordings of conversations between himself and/or any other defendant or any other person including Mr. Partin that were used by the government.

Further James R. Hoffa moves that no questions of any defendant in this case or any other of the defendants' witnesses, based on information received directly or indirectly as a result of unlawful interception or divulgence or telephone conversations or as a result of "bugging" of James R. Hoffa's rooms or offices or any other defendant's rooms or offices in this case be asked by government counsel.

[File endorsement omitted]

[fol. 97] James R. Hoffa, by his counsel, demands an immediate hearing as required by law on this motion.

Respectfully submitted,

James E. Haggerty, Sr.

Dated: February 18, 1964

[fol. 98]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

MOTION TO SUPPRESS EVIDENCE—Filed February 18, 1964

Larry Campbell, by his counsel, moves for the suppression of all evidence used by the Government in this case, secured directly or indirectly by interceptions and divulgences of telephone conversations and listening to telephone recordings of those conversations between James R. Hoffa and/or any other defendant and other persons. Further, the defendant, by his counsel, moves that no questions be asked by Government counsel of any defendant or of any of the defendant's witnesses based on information received directly or indirectly as a result of unlawful interceptions and divulgences of their telephone conversations.

The defendant Larry Campbell adopts and incorporates herein, as if more fully set forth, the affidavit and memorandum of interview by William E. Bufalino of William R. Daniels heretofore filed with this Court in support of the motion to suppress evidence filed on behalf of the defendant James R. Hoffa. The defendant Campbell further

[File endorsement omitted]

alleges, upon information and belief, that other conversations other than those between the witness Partin and defendant Hoffa may be the subject of an illegal wire tap, interception and divulgence.

Wherefore Larry Campbell demands an immediate hearing as required by law on this motion.

Respectfully submitted,

Cecil D. Branstetter, Attorney for Defendant Larry Campbell.

February 18, 1964

[fol. 99]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

MOTION FOR PRODUCTION—Filed February 18, 1964

James R. Hoffa, by his counsel, moves that all recordings, all notes of recordings, all transcriptions of recordings, which were secured, directly or indirectly, by the bugging of rooms, offices or conversations, or all electronic interceptions and recordings, notes and transcriptions of these electronic recordations, between defendant Hoffa and any other defendants, or between defendant Hoffa and Mr. Partin, or between defendant Hoffa and any other witnesses, or between defendant Hoffa and his attorney or any other attorneys, be produced forthwith for use by the defendant James R. Hoffa in the above-entitled cause.

[File endorsement omitted]

Furthermore, James R. Hoffa, by his counsel, moves that no questions be asked by the prosecution of any defendant in this case or of any defendants' witnesses based on information, or the fruits thereof, as a result of the recordations, electronic or otherwise, mentioned above.

Respectfully submitted,

Harry Berke, Counsel for Defendant James R. Hoffa.

Reserve until motion to suppress. Overruled 2-26-64 except as to Tel. transcripts. F. W. W.

[fol. 100]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

MOTION FOR PRODUCTION—Filed February 18, 1964

Now comes the defendant James R. Hoffa by his Attorneys and moves this Court as follows:

Upon information from William H. Daniels, Assistant to the District Attorney for the Nineteenth Judicial District for the State of Louisiana and which the defendant verily believes there was a meeting held in Baton Rouge, Louisiana in the offices of Sargent Pitcher, District Attorney for the Nineteenth Judicial District for the State of Louisiana; that Mr. Daniels has advised that this meeting was held sometime during the month of October or November 1962, and that the following persons were in

[File endorsement omitted]

attendance and participated in the interviews of Howard G. Partin concerning James R. Hoffa:

1. Howard G. Porter.
2. Sargent Pitcher.
3. William Daniels.
4. Mr. Grimsley representing the U.S. Government.
5. Peter E. Duffy, Asst. U.S. Attorney with offices in New Orleans, La.

Overruled 2-21-64. F. W. W.

[fol. 101] From the interview between William E. Bufalino and William Daniels on Friday the 14th day of February 1964, the defendant verily believes that a recording was made of the proceedings of the meeting or conference and that this recording was made by United States Government representatives or for them.

Defendant therefore, moves this Court to order the Government to produce any and all tapes, records or other recordations made by any electronic device or otherwise and to produce any memoranda, notes or correspondence in connection with this meeting; and to produce copies of any and all of these recordations; and also, to produce the electronic devices used in making these recordations.

Defendant further moves this Court that the Government be required to produce all records, recordings of recordations made by any electric device or otherwise whether or not they were made with the use of a "beep" signal or whether or not the Government classifies them "legal or electrical"; that this determination be made after production by this Court.

Respectfully submitted,

Harry Berke, Counsel for Defendant Hoffa.

[fol. 102]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

GOVERNMENT'S RESPONSE TO DEFENSE MOTIONS TO SUPPRESS EVIDENCE BASED ON WIRE TAPS, EAVESDROPPING AND OTHER ALLEGED INVASIONS OF PRIVACY—Filed February 19, 1964

This response is submitted in answer to all defense motions for hearings and for the suppression of evidence based on alleged unlawful interceptions and divulgences of telephone conversations or other alleged illegal mechanical invasions of privacy. Particularly, this is a response to the following documents, *inter alia*:

(1) Motion to Suppress Evidence filed by James E. Haggerty, Sr., Esquire under date February 17, 1964.

(2) Motion to Suppress Evidence filed by Harold Brown, Esquire, under date February 17, 1964.

[fol. 103] (3) Motion to Suppress Evidence filed by Jacques Schiffer, Esquire, under date February 17, 1964.

(4) Motion to Suppress Evidence filed by Harvey Silets, Esquire, under date February 18, 1964.

(5) Motion to Suppress Evidence filed by James E. Haggerty, Sr., Esquire, on February 18, 1964.

(6) Motion to Suppress Evidence filed by Cecil D. Branstetter, Esquire, under date February 18, 1964.

and any other similar motions filed by any of counsel for the defendants which have not been enumerated above.

[File endorsement omitted]

The authority cited herein and discussion of the applicable law are submitted in response to all memoranda submitted by defendants on this subject including the following memoranda submitted on behalf of the defendant Hoffa:

(1) Memorandum in Support of Right to an Immediate Hearing for Motion to Suppress

(2) Additional Memorandum of Law in Support of Motion to Suppress Evidence and For an Immediate Hearing

The Government submits that on the present state of the record, there is a total absence of evidence sufficient to warrant any hearing whatever regarding alleged illegal [fol. 104] wire tapping or other supposed "interception" of telephone conversations. The requisite standard for such a hearing is set out in *Nardone* v. *United States,* 308 U.S. 338, 341 (1939). The Court there said, "The burden is, of course, on the accused in the first instance to prove to the trial court's satisfaction that wire-tapping was unlawfully employed." See also *Lawn* v. *United States,* 355 U.S. 339, 348-49 (1958). As was demonstrated by the two affidavits attached to the Government's Response to the Motion to Produce Recordings and Transcripts Under 18 U.S.C., Section 3500, and by the authority cited in the accompanying memorandum of law, there was no unlawful activity of any nature whatever involved in the recording of the Partin-Hoffa telephone conversation. Consequently, the preliminary requirement established by the *Nardone* case is totally absent.

As for the defendants' contention that recording of the Partin-Hoffa conversation violated some regulations of the Federal Communications Commission, the Government is aware of no principle of law which excludes from evidence matters obtained without full compliance of Federal Communications regulations. Nor is it at all clear that restric- [fol. 105] tions may be placed on the use of recording devices or that such restrictions would apply to the calls made in the present instance. Indeed, in *Rathbun* v. *United*

States, 355 U.S. 107, 110 n. 7 (1957), the Supreme Court approved of the use of recording devices by either party to a telephone conversation. It said:

> "Note also that the regulations of the Federal Communications Commission which control the recording of telephone conversations presuppose that either party may record a conversation and declare that tariff regulations of telephone companies which bar the use of recording devices are unjust and unreasonable and so in violation of Section 201 of the Federal Communications Act."

Finally, the Supreme Court in *Nardone,* 308 U.S. at 341, stated further that once the defense has established "that wire tapping was unlawfully employed," the burden is on "the accused to prove that a substantial portion of the case against him was a fruit of the poisonous tree." In the present instance, the testimony already in the record of the witness Partin and the witness Daniels, establishes that the Partin-Hoffa telephone conversation touched only incidentally on the evidence presented in this case. It must be obvi- [fol. 106] ous from the substance of the testimony of the witness Partin that the evidence in this case could not be said to have resulted from the "exploitation" of any information received by the United States, through law enforcement officials in the State of Louisiana, from the Partin-Hoffa telephone conversation. Indeed, whatever slight information could have been received as to the content of the telephone conversation of October 18, 1962, could obviously have been received by the United States from "an independent origin" *i.e.,* the personal report of Mr. Partin as to what was said over the telephone.

Respectfully submitted,

J. H. Reddy, U. S. Attorney, John J. Hooker, James F. Neal, Special Attorneys.

[fol. 107]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

GOVERNMENT'S RESPONSE TO DEFENDANT HOFFA'S "MOTION FOR PRODUCTION" AND TO DEFENDANT HOFFA'S "MOTION" OF FEBRUARY 18, 1964—*Filed February 19, 1964*

In these two motions filed on February 18, 1964, the defendant Hoffa seeks production, in the broadest terms, of various items relating to his allegations of illegal recordings and/or interceptions.

1. The Government submits that there is no basis whatever in the testimony of William H. Daniels, upon whose information the "motion" was filed by defendant Hoffa, to support production of the sort requested in the said motion. The said William H. Daniels was interrogated fully by counsel for defendant Dorfman and opportunity was [fol. 108] given for further interrogation by counsel for defendant Hoffa during the session of February 18, 1964, and no basis for any allegation of illegal recording or eavesdropping was produced during such interrogation. Indeed, with respect to the request for memoranda, notes or correspondence relating to the meeting referred to in the said motion, it appeared affirmatively from the testimony of William H. Daniels (transcript page 5860) that no notes or memoranda whatever were taken.

2. With respect to the "Motion for Production" made "in order to demonstrate conclusively that the Government has been engaged in unlawful conduct and invaded the pri-

[File endorsement omitted]

vacy of [defendant's] rights to have a fair trial and to demonstrate a clear interference between attorney and client relationship," this motion is totally without merit. It is neither an infringement on any constitutional right nor a violation of any statute for an agent of the Government, or any other witness, to use an electronic device in order to obtain corroborative recordings of conversations he has with others. This principle was conclusively established by the decision of the Supreme Court last term in *Lopez* v. *United States,* 83 Sup. Ct., 1381 (1963).

[fol. 109] 3. Finally, defendant has made no showing whatever of any "bugging of rooms, offices or conversations, or . . . electronic interceptions and recordings" such as would violate constitutional protections or statutory law. Consequently, there is no reason to require the Government to come forward with any evidence or to produce any documents whatever.

Respectfully submitted,

J. H. Reddy, U. S. Attorney, John J. Hooker, James F. Neal, Special Attorneys.

[fol. 110]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

GOVERNMENT'S RESPONSE TO SUBPOENA DUCES TECUM SERVED ON JAMES F. NEAL ON FEBRUARY 18, 1964—Filed February 19, 1964

The Government submits that none of the items requested in the subpoena duces tecum served on James F. Neal on

[File endorsement omitted]

February 18, 1964, is properly subject to production. An itemized list of each of the demands made in the said subpoena follows, to which is added in each instance, an explanation of the reasons why the demand is believed to be unjustified:

1. "Any recordings, tapes, etc., of telephone conversations between Edward G. Partin and James R. Hoffa, and any transcriptions or memoranda made therefrom"

All recordings of such conversations which were in the possession of the United States pursuant to delivery by law-enforcement officials of the State of Louisiana were submitted to the Court together with the response to the Motion for Production under the Jencks Act. Transcriptions of these tapes were submitted to the Court on February 10, 1964, and were sealed by the Court. (Transcript pp. 4021, 4028.)

[fol. 111] 2. "Any and all tapes, recordings and transcriptions of all meetings held between you [*i.e.*, James F. Neal] and Edward G. Partin regarding James R. Hoffa and more particularly, records, tapes and transcriptions of a meeting or meetings held in New Orleans, Baton Rouge or elsewhere in the State of Louisiana."

Meetings between Mr. Neal and Edward G. Partin took place only in preparation for his testimony during this trial, and no tapes or transcriptions were taken at those meetings. (See the testimony of John J. Hooker, Esquire, regarding these meetings at pages 3725 to 3735 of the transcript.) Mr. Neal had no meetings with Partin in Louisiana.

3. "All tapes, recordings and transcriptions of a particular meeting where some or all of the following were present: Edward G. Partin; Sargent Pitcher; William Daniels; Frank Grimsley; and Peter Duffy"

No such items are in the possession of the United States Government.

4. "All memoranda, notes, correspondence and statements of affirmation or adoption by Edward G. Partin of the matters discussed at those meetings"

No such items are in the possession of the United States Government.

5. "All statements signed by Edward G. Partin regarding James R. Hoffa"

The only such statements even in the possession of the United States Government which relates to this case was the affidavit submitted to the defense at the conclusion of the witness' direct testimony. Another affidavit, executed during the trial, and relating to telephone conversations of October 8 and October 18, 1962, was attached to the Government's response to the motion made under 18 U.S.C. 3500.

[fol. 112] 6. "Files and court records on the indictments presently pending which have been dismissed or otherwise disposed of during the years 1962, 1963 and 1964"

This request does not specify the defendant or defendants whose indictment files and records are sought. Assuming, however, that reference is made to indictments involving Edward G. Partin, all court records are matters of public record which are available to the defendants by means other than the service of process on the Government. Further, no such court records are or could be evidentiary in this case.

7. "All motions for continuance, etc., made by the United States Government in those cases"

Whatever motions for continuance may have been made are matters of public record and available in the court files of the appropriate court.

8. "All correspondence between the office of the United States Attorney in New Orleans and the Justice Department, more particularly correspondence, memos, inter-office communications, etc., with Attorney General Robert Kennedy, Assistant Attorney General Herbert J. Miller and Robert Erdahl."

Mr. Neal knows of no such correspondence. If any exists, it could not possibly be evidentiary in this case. It

concerns solely the internal workings of the Department of Justice.

A subpoena duces tecum of the sort involved here may be issued on the Government only if it constitutes "a good faith effort . . . to obtain evidence." *Bowman Dairy Co.* v. *United States,* 341 U.S. 214, 220 (1951). The standards by which this element of "good faith" may be judged and [fol. 113] under which the Court's discretion to direct compliance with a subpoena should be exercised is set out in the leading case of *United States* v. *Iozia,* 13 F.R.D. 335, 338 (S.D.N.Y. 1952). It was there held that in order to obtain compliance with a subpoena duces tecum, a defendant must show:

> "(1) That the documents are evidentiary and relevant;
>
> (2) That they are not otherwise procurable by the defendant reasonably in advance of trial by the exercise of due diligence;
>
> (3) That the defendant cannot properly prepare for trial without such production and inspection in advance of trial and the failure to obtain such inspection may tend unreasonably to delay the trial;
>
> (4) That the application is made in good faith and is not intended as a general fishing expedition."

See also *United States* v. *Wernikove,* 214 F. Supp. 112 (E.D. Pa. 1963). As District Judge Alexander Holtzoff (on whose authority the defendants rely heavily in a memorandum regarding impeachment filed on February 17, 1964) said in *United States* v. *Carter,* 15 F.R.D. 367, 369 (D.D.C. 1954):

> "Manifestly, a subpoena duces tecum may be used only for the production of documents that are admissible in evidence, and in addition, at most, for the production of documents that may be used for the purpose of impeaching a witness called by the opposing party. A subpoena duces tecum may not be used for the pur-

pose of discovery, either to ascertain the existence of documentary evidence, or to pry into the case of the prosecution."

[fol. 114] In the present instance, the defendants have patently failed to meet *any* of the four standards set out in the *Iozia* case. As the above analysis demonstrates, most of the requests pertaining to available documents or other items are neither relevant nor capable of being introduced as evidence. Many of these items, such as the Court records or files requested, could have been procured by the defendants well before this time in the exercise of due diligence. Nor is there any reason to believe that the failure to produce these documents at the present time would unreasonably delay the trial. Indeed, it is likely that any production of this sort would lead only to future elaboration of the various collateral and irrelevant matters which the defense has succeeded injecting into the present trial. Finally, the broad sweep of requests 5, 6, 7 and 8 indicate clearly that this subpoena is nothing more than a "fishing expedition" and has been issued only in order "to ascertain the existence of documentary evidence or to pry into the case of the prosecution."

Respectfully submitted,

J. H. Reddy, U. S. Attorney, John J. Hooker, James F. Neal, Special Attorneys.

[fol. 115]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

MOTION TO REQUIRE THE GOVERNMENT TO DISCLOSE SPECIFICALLY AND UNEQUIVOCALLY TO THE COURT WHETHER OR NOT IT HAS ADDITIONAL ELECTRONIC RECORDINGS OF ANY CONVERSATIONS INVOLVING THE DEFENDANTS—Filed February 24, 1964

Come Now defendants and move the Court for an order requiring the Government to disclose to the Court specifically and unequivocally whether or not it has in its possession any electronic recordings or transcriptions thereof, not previously disclosed, of conversations between any defendant and any other defendant, and between any defendant and any other person whether the same is a recording of a telephone conversation or any other type of conversation.

Respectfully submitted,

James E. Haggerty, Attorney for defendant Hoffa; Harvey M. Silets, Attorney for Defendant Dorfman; Dave Alexander, Attorney for defendant Tweel; J. M. Schiffer, Attorney for defendant Parks; H. E. Brown, Attorney for defendant King; Cecil D. Branstetter, Attorney for defendant Campbell.

Overruled 2-26-64. F. W. W.

[File endorsement omitted]

[fol. 116]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

GOVERNMENT'S RESPONSE TO DEFENDANTS' MOTION TO REQUIRE THE GOVERNMENT TO DISCLOSE SPECIFICALLY AND UNEQUIVOCALLY TO THE COURT WHETHER OR NOT IT HAS ADDITIONAL ELECTRONIC RECORDINGS OF ANY CONVERSATIONS INVOLVING THE DEFENDANTS—Filed February 25, 1964

The Government submits that this motion, purportedly filed on behalf of all defendants—including even those who have already testified and who have rested their case, amounts to nothing more than an interrogatory directed at discovering the nature and quantity of evidence which the Government could produce in rebuttal. There is patently no basis for any such discovery procedure in criminal cases and this motion amounts, in its entirety, to a discovery device.

In *United States* v. *Schneiderman*, 104 F. Supp. 405, 410 (S.D. Cal. 1952), the defendants sought production of documents which, like the matter requested in the present motion, could be used by the prosecution "for rebuttal or impeachment purposes." The Court there denied the motion for reasons which are as applicable to such demands [fol. 117] when made during trial as they are to pre-trial requests:

> "It is to be remembered also that the prosecution cannot determine, until the defense has introduced witnesses and evidence, what if any rebuttal or im-

[File endorsement omitted]

peachment will be called for. Hence writings relating to possible rebuttal or impeachment are essentially in an area where the surprise element is unavoidable; and, moreover, desirable as a force tending to keep both sides within the narrow confines of the truth. [Authorities omitted.]

The considerations just mentioned bespeak the soundness of the conclusion *that avoidance of pitfalls in impeachment or rebuttal is not an end which pretrial discovery is purposed to further.*" [Emphasis added.]

Similarly, in *United States* v. *Rosenfeld,* 57 F.2d 74, 76-77 (2d Cir. 1932), a demand for written statements (of the nature subsequently covered by the Jencks Act) was denied during trial on the ground that "what the defendants really asked here was a discovery of papers at the trial."

The Court of Appeals affirmed the conviction on the ground that, even if discovery could be extended to criminal cases, it would not be appropriate as to matters relating only to rebuttal or impeachment of defendants:

"It is not enough merely to demand an inspection of papers; the party demanding discovery is confined to documents necessary to the establishment of his own case. This demand was merely to fish among the prosecution's papers. Even if discovery were ever permissible in a criminal case, this would be unwarranted."

[fol. 118] In essence, what the defendants seek is discovery of evidence in the possession of the Government before the defendant Hoffa takes the stand. Consequently, the very same reason which renders a defendant's own statement made to Government officials immune from production under a subpoena is fully applicable in these circumstances. (*United States* v. *Pelts,* 18 F.R.D. 394, 405 (S.D.N.Y. 1955):

"It is no justification for a subpoena under Rule 17(c) that defendant wants to make sure the story he tells at the trial is not impeached by any prior inconsistent statements he may have made earlier to the Government."

Respectfully submitted,

J. H. Reddy, U. S. Attorney; John J. Hooker, James F. Neal, Special Attorneys.

[fol. 119]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

OFFER OF PROOF AS TO WITNESS LESTER BLOOMENSTIEL—
Filed February 25, 1964

In addition to the evidence already admitted by this Witness, the Defendant James R. Hoffa offers to prove in addition thereto the additional facts:

That he has known Edward Partin since 1957 and was closely associated with him in business. He invested considerable funds in the operation of a truck stop in Baton Rouge, Louisiana. Mr. Partin agreed that he would operate the truck stop and they would divide the profit on an equal basis.

He would further testify that he hired a man to manage the truck stop and when he went to the hospital for a period of about seven weeks for a major operation, Edward Partin fired the manager and hired Mildred Kelley to manage the truck stop. When he fired Mildred Kelley, he put his brother, Donald Partin, in as the manager of the truck stop. When he recovered from his operation and returned to find that Edward Partin's brother had taken over the management of the truck stop, he was informed that the books had been subpoenaed by the Federal Gov-

ernment and that he and Edward Partin were about to be charged with fraud for not reporting the tax due the Federal Government on over-the-road diesel fuel that was sold in the truck stop.

At a meeting with the Internal Revenue Service, Edward Partin and this Witness signed a declaration that they owed the Government $9700. The fraud charge was then dropped. Shortly after signing the declaration, each of the parties had agreed to make a $100 payment each to the Internal Revenue Department but Edward Partin who first made out the check, tore the check up just before they started to walk into the Internal Revenue Department office to make the payment. Mr. Partin refused to carry out his agreement. Witness then made arrangement to pay his half of the approximately $9600 to $9700 of the obligation. Edward Partin refused to pay his half.

In the meantime the truck stop was sold by the parties to a Bob Rooney on credit. There was an understanding that Edward Partin would take the installment payments and apply it to the payment of the taxes. This was done by him for a very short period and when the Witness found out that Edward Partin was not carrying out his agreement he suggested that the Government attach the [fol. 120] balance of the purchase price due Edward Partin by Bob Rooney and as a result of this, some additional payments were made to the Government. Even though the Witness arranged to have the Government attach the balance purchase price, the Government took the money and applied it to another tax deficiency which Edward Partin owed so that it did not benefit this Witness at all. The Witness was still pushed for the payment of Edward Partin's half and when the Witness raised a lot of cain with the Government they finally agreed to transfer credits from Edward Partin's personal tax liability to the balance of the over-the-road fuel tax. When the Government finally made the tax adjustment, the Witness had to pay between $1700 and $1800 to extinguish this liability. The collector of Internal Revenue told this Witness that they had orders

from New Orleans not to pursue the collection of the debt against Edward Partin because they were going to use Partin on something much bigger.

When he paid this $1700 or $1800 he had to sell some of his property in order to pay it. At the time this tax liability became due, Edward Partin also owned real estate which the Government could have taken to enforce the payment of this claim. It was about three years from the time the Witness paid his half until he finally had to pay the balance of Edward Partin's one-half and the United States Government made no effort to collect the tax against Edward Partin in the last year when they could have collected the tax from him. They told this Witness that he would not have to worry about paying any part of his tax but they could not give him a receipt to that effect.

Respectfully submitted,

Berke & Berke, Attorneys for Defendant James R. Hoffa.

[fol. 121]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

DEFENDANT HOFFA'S MOTION TO STRIKE PORTIONS OF THE TESTIMONY OF THE WITNESS—Filed February 28, 1964

Defendant James R. Hoffa without waiving the benefit of any prior motions to strike or objections to the testimony of the witness Partin, made either orally or in writing, hereby moves as follows:

[File endorsement omitted]

1. To strike certain portions of the testimony of the witness Partin, to wit:

page 3246 — lines 13 thru 25
page 3247 — lines 1 thru 3
page 3284 — lines 10 thru 22
page 3285 — lines 13 thru 21
page 3309 — lines 1 thru 3
and 10 thru 13
page 3377 — lines 7 thru 9

and all testimony on cross examination relating to the subject matter of the above portions of witness Partin's testimony.

2. The basis of this motion is:

(a) The testimony was obtained in violation of the defendant's rights against unreasonable search and seizure by the government as guaranteed him by the 4th Amendment of the Constitution of the United States.

(b) It was obtained in violation of the defendant's right against self-incrimination as guaranteed him by the 5th Amendment of the Constitution of the United States.

Defendant also moves to strike all of the testimony of the witness Partin contained on pages 3384 thru 3390 because it is immaterial to the issues in this case and highly prejudicial to the defendant Hoffa because the reward discloses a close association between defendant Hoffa and the Charles O'Brien referred to in said testimony and because there was an objectionable reference to Exhibit 3 by the U.S. Attorney during the course of said testimony.

Respectfully submitted,

James E. Haggerty, Attorney for defendant Hoffa.

Feb. 28, 1964

Overruled 3-1-64

[fol. 122]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

DEFENDANT KING'S MOTION TO STRIKE TESTIMONY—
Filed February 28, 1964

Defendant Ewing King without waiving the benefit of any prior motion to strike or objections to the testimony of the witness Partin, made either orally or in writing, hereby moves as follows:

1. To strike certain portions of the testimony of the witness Partin, to wit,

page 3305 — lines 7 through 25
page 3306
page 3307 — lines 1 through 3
page 3364 — lines 10 through 18

and all testimony on cross examination relating to the subject matter in the above portions of witness Partin's testimony.

2. The basis of this motion is:

(a) The testimony was obtained in violation of the defendant's rights against unreasonable search and seizure by the government as guaranteed him by the Fourth Amendment of the Constitution of the United States.

(b) It was obtained in violation of the defendant's right against self-incrimination as guaranteed him

[File endorsement omitted]

by the Fifth Amendment of the Constitution of the United States.

3. Defendant moves to strike all of the testimony of the witness Partin contained in pages 3384 through 3390 on the grounds that it is immaterial to the issues in this case and highly prejudicial to the Defendant King because the record discloses a close association between Hoffa and the Charles O'Brien referred to in said testimony and because there was an objectionable reference to Exhibit 3 by the U. S. Attorney during the course of said testimony.

Respectfully submitted,

H. E. Brown, Counsel for Defendant Ewing King.

February 28, 1964

Overruled 3-1-64 F W W

[fol. 123]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

DEFENDANTS' MOTION TO STRIKE CERTAIN EVIDENCE AT THE CLOSE OF THE ENTIRE CASE—Filed February 28, 1964

Come now defendants and respectfully move the Court to strike the following evidence for all the grounds and reasons heretofore advanced during the trial, and without limiting the generality of the foregoing, for all the reasons set out below:

[File endorsement omitted]

I.

Testimony of Andrew H. Mizell that before the Nashville Trial terminated on December 23, 1962, jurors Mrs. James Paschal and Gratin Fields were excused, and, testimony that James C. Tippens was excused before the jury was sworn, all for the reason that this testimony is immaterial as well as highly prejudicial to the defendants in this case, and does not tend to prove or disprove any of the allegations of the indictment.

II.

All of the testimony of James C. Tippens for the same reasons as stated hereinabove in paragraph I.

Overruled 3-1-64 F W W

[fol. 124]

III.

All of the testimony of the witness James T. Walker because said testimony constitutes hearsay, and there has been no connection shown between such testimony and this defendant under Count Three, and for the further reason that there was no showing of any unlawful confederation between defendants Hoffa and Parks, so that said evidence cannot be binding on this defendant.

IV.

The testimony of Carl Edward Fields because such testimony is not in any manner connected to this defendant and Count Three, and is hearsay, and for the additional reasons set out in paragraph IV hereinabove.

V.

The testimony of Mrs. Mattie Leath because it is not in any way connected with this defendant and Count Three and for the further reason that it is hearsay insofar as it related to conversations with the witness Walker, who was neither alleged nor proved to be an agent of the defendant

Parks, and for the additional reasons set out in paragraph IV hereinabove.

VI.

The testimony of special agent William L. Sheets because of the refusal of the Court to permit examination of this witness by the defendant to determine the existence of reports to which defendant would be entitled under Title 18, United States Code, section 3500.

VII.

The testimony of Walter J. Sheridan for the reasons set out hereinabove in paragraph VI.

VIII.

The testimony of Mattie Mix because of the Court's deprivation of the right of the witness to assert her privilege under the Fifth Amendment and the Constitution of the United States and for the further reason that none of the testimony of this witness is in any way connected up with this defendant.

[fol. 125]

IX.

The testimony of Madie Harris because it has no probative value with respect to any Count of the Indictment, and does not tend to prove or disprove the allegations of any Count of the indictment.

X.

The testimony of Niles Kitchen and the Exhibits which were introduced in connection with such testimony because of failure to lay a proper foundation for such testimony and Exhibits, and for the further reason that said evidence was irrelevant and immaterial to any of the issues in this case, and constitutes hearsay.

XI.

The testimony of Anna Brown because it constitutes hearsay and has no relevance to any of the issues in the case and is not in any way connected up with this defendant.

XII.

The testimony of Ernestine Williams for the reasons set out in paragraph XI hereinabove.

XIII.

The testimony of J. J. Isaacs because of lack of proper foundation for the telephone records which he introduced as evidence and because said evidence constitutes hearsay, and because of the lack of relevance of such records to any of the issues involving this defendant.

XIV.

The testimony of the witness Arthur Schaider and the exhibits which were introduced through him for the reason that no proper foundation was laid for the introduction of the telephone records and for the further reason that such records constitute hearsay and have no relevancy to this defendant.

XV.

The testimony of Carol Pettijohn for the reason that it has no relevancy to nor is it in any way connected with [fol. 126] this defendant and constitutes hearsay as to this defendant.

XVI.

The testimony of Helen Rippey for the same reasons stated hereinabove in paragraph XV.

XVII.

The testimony of Hazel Fulton because it has no relevancy to any count involving this defendant nor has it been

connected up with this defendant, and constitutes hearsay as to this defendant.

XVIII.

The testimony of Mrs. Mary E. Meyers and the Exhibits introduced through Mrs. Meyers for the reason that no proper foundation was laid for the telephone calls and because of a lack of relevancy of any such calls to this defendant, and it constitutes hearsay as to this defendant.

XIX.

The testimony of Richard Chichester and the Exhibits which were introduced through him for the reason that a proper foundation was not laid for the telephone records and for the further reason that none of such testimony has been connected up with this defendant, and constitutes hearsay as to this defendant.

XX.

The testimony of Frank S. Tulloss, Jr., for the reasons set out hereinabove in paragraph XIX.

XXI.

The testimony of Robert Ray and Government Exhibit 84 which was introduced through him for the reason that there is no relevancy of that Exhibit to any material issue in the case, and said Exhibit only to prejudice the minds of the jurors against this defendant.

XXII.

The testimony of William M. Hobbs, Jr. because his testimony with respect to the surveillance of the defendant King [fol. 127] has not been connected up with this defendant.

XXIII.

The testimony of J. Charles Still for the reason that his testimony of the surveillance of the defendant King has

not been connected up with the defendant. Also the government's exhibit No. 86 introduced through Mr. Still which was offered for the purpose of identifying that a man walking with defendant Hoffa was the man with whom defendant King traded cars the night of the surveillance should be stricken for the further reason that it is highly prejudicial and not relevant to any issue herein.

XXIV.

The testimony of Willis S. Turner, Francis W. Norwood, Walt L. Walsh, and Marvin Eubanks for the reason that his testimony with respect to the surveillance of the Defendant King has no relevance to and has not been connected up with this defendant.

XXV.

The testimony of Oscar Pitts for the reason that such testimony has no relevance to any of the issues herein and has not been connected up with this defendant, and constitutes hearsay as to this defendant.

XXVI.

The testimony of Joe Edward Zimmerle and Edwin E. O'Brien for the reason that said testimony is not material nor relevant to this defendant, and constitutes hearsay as to this defendant.

XXVII.

The testimony of Joe Rudis and government's exhibit No. 93 and introduced through the witness because it is not relevant and has not been connected up with this defendant.

XXVIII.

The testimony of Edward G. Partin for the following reasons:

(A) All of the reasons set forth in the Motion to Sup-
[fol. 128] press said witness' testimony previously filed with the Court.

(B) Because of the improper limitation of cross-examination of said witness by the defendants, and particularly relating to the matters disclosed in the secret session.

(C) Because of the refusal of the Court to turn over to the defendants the notes and memoranda of agent Walter J. Sheridan which were taken contemporaneously with Mr. Partin's admitted reports to Mr. Sheridan and which fall within the provisions of the Jencks Act.

(D) Because of the witness' evasive non-responsive and highly improper answers as well as his refusals to answer, and the failure of the Court to properly direct the witness and reprimand him for his demeanor, evasiveness and equivocation on the stand.

(E) Because of the refusal of the Court to turn over to the defendant the F.B.I. statements which were based upon agent Walter Sheridan's reports which were in turn based upon interviews with the witness Edward G. Partin.

XXIX.

The testimony of Cecil Gallaspy and Martin J. Gillen and the exhibits introduced through them because no proper foundation has been laid for such exhibits and because they are not relevant or connected up with this defendant, and constitutes hearsay as to this defendant.

XXX.

The testimony of Hazel Fulton, James T. Walker, Carl Fields, Jr., James Paschal, Oscar Pitts and Edward G. Partin for the reason that all of said witnesses admitted and confessed in open Court making false statements under oath and committing perjury.

XXXI.

All of the testimony of witnesses Kitchen, Isaacs, Schneider, Mrs. Meyers, Chichester, Tulloss, Gallaspy, and Gillen [fol. 129] for the reason that neither the registration of a telephone number in a defendant's name or the assignment of a particular credit card number to a defendant has any materiality or competency with respect to whether or not that defendant did in fact make or receive a telephone call.

XXXII.

All of the testimony of government witness Albert J. Gasdor, and the exhibit which was introduced through him for the reason that said exhibit and testimony constitute hearsay, are not binding on defendants, and are immaterial and irrelevant to the points at issue in this case.

XXXIII.

All of the evidence offered by the government in rebuttal on the ground that such evidence is incompetent, irrelevant and immaterial, and constitutes hearsay, and is improper rebuttal.

Respectfully submitted,

James E. Haggerty, Attorney for Defendant Hoffa.

Harvey M. Silets, Attorney for Defendant Dorfman.

....., Attorney for Defendant Tweel.

H. E. Brown, Attorney for Defendant King.

Cecil D. Branstetter, Attorney for Defendant Campbell.

J. M. Schiffer, Attorney for Defendant Parks.

[fol. 130]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

ORDER ON MATTERS RESERVED AS TO FEBRUARY 28, 1964—
Filed February 29, 1964

Various motions and matters having been reserved by the Court at the time for adjournment upon Friday, February 28, 1964, and the Court having further considered the same, this memorandum and order is now entered in this case:

(1) The motion to strike the testimony of various witnesses, the said motion filed on behalf of all defendants upon February 28, 1964, is hereby overruled.

(2) The motion filed on behalf of the defendant, James R. Hoffa, to strike certain portions of the testimony of the witness Partin, said motion filed upon February 28, 1964, is hereby overruled.

(3) The motion filed on behalf of the defendant, Allen Dorfman, to strike certain portions of the testimony of the witness Partin, said motion filed upon February 28, 1964, is hereby overruled.

(4) The motion filed on behalf of the defendant, Ewing King, to strike certain portions of the testimony of the witness Partin, said motion filed upon February 28, 1964, is hereby overruled.

(5) The motion filed on behalf of the defendant, Nicholas J. Tweel, to strike certain portions of the testimony of the

[File endorsement omitted]

witness Partin, said motion filed upon February 28, 1964, is hereby overruled.

[fol. 131] (6) The motion made on behalf of the defendant, Larry Campbell, to strike the testimony of witness Partin, said motion filed upon February 28, 1964, and being the renewal of a motion made by the defendant at the close of the Government's proof in chief, be and hereby is overruled.

(7) The motions filed on behalf of the defendants, James R. Hoffa, Larry Campbell, Allen Dorfman, Thomas Ewing Parks, Nicholas J. Tweel, and Ewing King, for a judgment of acquittal at the close of the entire case, said respective motions having been filed upon February 28, 1964, be and hereby are each overruled.

(8) A total of ten (10) hours will be allowed for argument of the case, with each side being allowed five (5) hours for argument. The defense will be allowed to argue by such counsel and in such order as they may agree and they may divide the time of the arguments in such manner as they may agree. Should any defendant be unable to agree in these respects, the Court shall be notified thereof prior to the commencement of any argument, and the Court shall thereupon determine the order of argument for each defendant and allot the time of argument for each defendant. All argument shall be completed upon Monday, March 2, 1964, and Tuesday, March 3, 1964, with neither side being allowed more than two and one-half (2½) hours argument upon Tuesday, March 3, 1964.

Enter:

Frank W. Wilson, United States District Judge.

[fol. 132]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

DEFENDANT JAMES R. HOFFA'S MOTION FOR A NEW TRIAL—
Filed March 10, 1964

The defendant James R. Hoffa moves the Court to grant a new trial for the following reasons:

1. The Court erred in denying defendant's motion for judgment of acquittal made at the conclusion of the government's evidence.

2. The Court erred in denying defendant's motion for judgment of acquittal made at the conclusion of all of the evidence.

• • • • • • •

[fol. 133] 30. The Court erred in excluding evidence to prove that the evidence admitted against the defendant was the fruit of illegal action on the part of the government in violation of the 4th, 5th and 6th Amendments to the Constitution of the United States.

31. The Court erred in denying the defendant's motion to strike testimony of certain government witnesses and government exhibits which motion was filed at the close of the government's case and again filed at the close of the [fol. 134] entire case, and, in addition, all of the testimony of the witnesses offered by the government in rebuttal, including witnesses offered with regard to the character and

[File endorsement omitted]

reputation of the witness Partin, and defendant incorporates herein by reference all of the matters and things set out in aforedescribed motions to strike, and all of the motions to strike made during the course of the trial.

32. The Court erred in denying the defendant's repeated motions for withdrawal of a juror and declaration of a mistrial.

• • • • • • •

34. The Court improperly failed to admonish witness Partin to answer questions but permitted him to continuously inject his opinions and conclusions and unresponsive answers, and the Court refused, in spite of numerous requests by counsel, to admonish the witness to answer questions directly.

35. The Court erred in denying the defendant his constitutional right to properly and fully cross examine witnesses appearing against him, and, particularly in limiting the cross examination of government witness Partin and other government witnesses.

36. The Court improperly failed to order witness Partin to answer on cross examination questions propounded to him, which answer was refused on the basis that it related to a matter not pertinent to this case and the Court permitted witness Partin to judge for himself the relevancy of the matter, and refused to grant voir dire as to whether such evidence was relevant.

• • • • • • •

[fol. 135] 41. The Court erred in denying the motion to suppress the evidence of witness Edward Grady Partin and all evidence that the government secured from Edward Grady Partin directly or indirectly which was obtained from his presence in Nashville, Tennessee between October 22 and December 20, 1962 under the circumstances of this case for the reason that, among other things, this violated the defendant's right against unreasonable search and seizure, the right not to incriminate himself and the right to

assistance of counsel, and to due process of law. In support of the foregoing, the defendant attaches the issue of March 13, 1964 of "Life" magazine and more particularly pages 20 to 25 thereof as an exhibit hereto.

42. The Court erred in denying the motion to suppress evidence of Edward Partin, and in finding and stating as follows:

> [fol. 136] "I would further find that the government did not place this witness Mr. Partin in the defendants' midst or have anything to do with placing him in their midst, rather that he was knowingly and voluntarily placed in their midst by one of the defendants." (T. 3212)

43. The Court erred in failing to grant a mistrial after refusing to make available to the Defendant the actual recordings or transcriptions of the recordings between Partin and the Defendant James R. Hoffa, thus preventing Partin from being cross examined when he was offered as a witness for the government.

44. The Court erred in refusing to permit defendant's counsel to see the notes made by Walter Sheridan of reports made to him by Edward Grady Partin.

45. The Court erred in refusing to make available to the defendant the reports made by Walter Sheridan to the Federal Bureau of Investigation and the reports which the Federal Bureau of Investigation made of the information Walter Sheridan supplied.

46. The Court erred in denying the motion to suppress and in stating that:

> " . . . there is no information in the notes and papers of the witness Sheridan that would be proper or lawful to make available to the defendants.
>
> "Likewise the request of the defendants for examination of all FBI reports should be denied." (Tr. 3212)

47. The Court erroneously withheld information from defendant pertaining to transcriptions of recordings made of telephone conversations between defendant Hoffa and witness Partin, thus permitting the government to mislead the defendant with reference to the recordings of said telephone conversations, and to misrepresent to defendants that no recordings of such conversations were in existence, whereas the Court knew or should have known that such recordings of conversations between defendant Hoffa and witness Partin were in fact in existence and were for a considerable period of time in the possession of the Court. Partin was also permitted to testify falsely that he was invited by Mr. Hoffa to come to Nashville, whereas the telephone recordings proved conclusively that he asked Mr. Hoffa whether he could come there.

• • • • • • •

[fol. 137] 48b. The Court erred in refusing to require witness Daniels to respond to defendant's subpoena duces tecum, and particularly to produce transcript of two other telephone recordings acknowledged to involve the defendant Hoffa, and in addition some 40 to 50 other transcriptions of telephone recordings, and in allowing said witness to determine the relevancy of said documentary evidence.

[fol. 138] 49. The Court erred in not preventing witness Partin from falsely testifying under oath that no recordings were made of conversations between him and defendant Hoffa when, at the time such statements were made by such witness, the Court had in its possession transcriptions of recordings of such telephone conversations.

50. The Court improperly failed to turn over to defendant transcriptions of telephone-recorded conversations between the defendant Hoffa and witness Partin in time to permit the defendant to cross examine witness Partin on the basis of such transcriptions; and the Court further erred in not turning over to defendants the recording which

was in the possession of the government of a conference held between witness Partin and Assistant U. S. Attorney Duffy, which recording should have been turned over in time to cross examine witness Partin; and compounded the foregoing error by refusing defendant's request to submit witness Partin for further cross-examination.

51. The Court erred in permitting witness Partin to testify relating to a statement made by defendant Hoffa that he had had defendant Campbell come to Nashville to take care of the colored juror prior to the trial, and prior to the dates alleged in the indictment.

52. The Court erred in failing to grant the defendant an immediate hearing on the motion to suppress the recordings of telephone conversations between defendant Hoffa and the witness Partin and all evidence obtained directly or indirectly by the government as a result thereof, for the Court's action in delaying such hearing until after both sides had rested gravely prejudiced the defendant.

53. The Court erred in quashing the subpoenae duces tecum which were issued on government representatives with regard to the motion to suppress the recordings of telephone conversations and evidence obtained directly or indirectly therefrom.

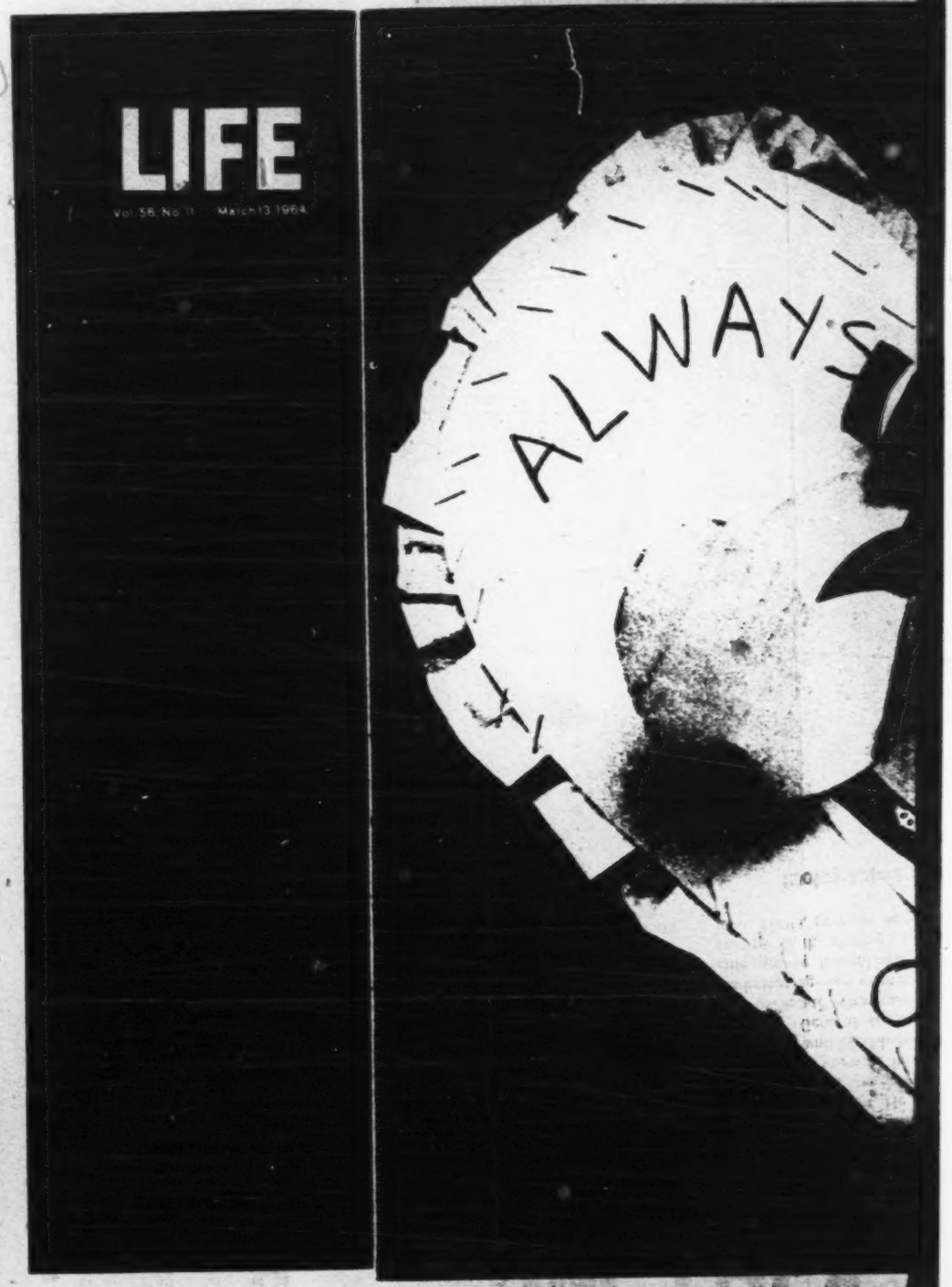
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[fol. 139] 66. The Court erred in the total or partial exclusion of the testimony of the following witnesses, among others, in behalf of the defense: Sol Fox, Fred M. Shobe, William J. Reynolds, Rena Mai Booth, J. D. Albin, Otis Tynes, Ann Smith, Prentice H. Moak, Hoyt Tillman, Frank Grimsley and James L. Tassey, thereby depriving the defendant of the right to present evidence in support of his defense.

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The Inside Story of the Attorney General's Task Force that Convicted Teamster Boss





HOFFA: HOW THEY

by HENRY SUYDAM

e Attorney General's
icted Teamster Boss



LIFE



HOFFA: HOW THEY NAILED HIM

by HENRY SUYDAM



HOFFA'S NEMESIS



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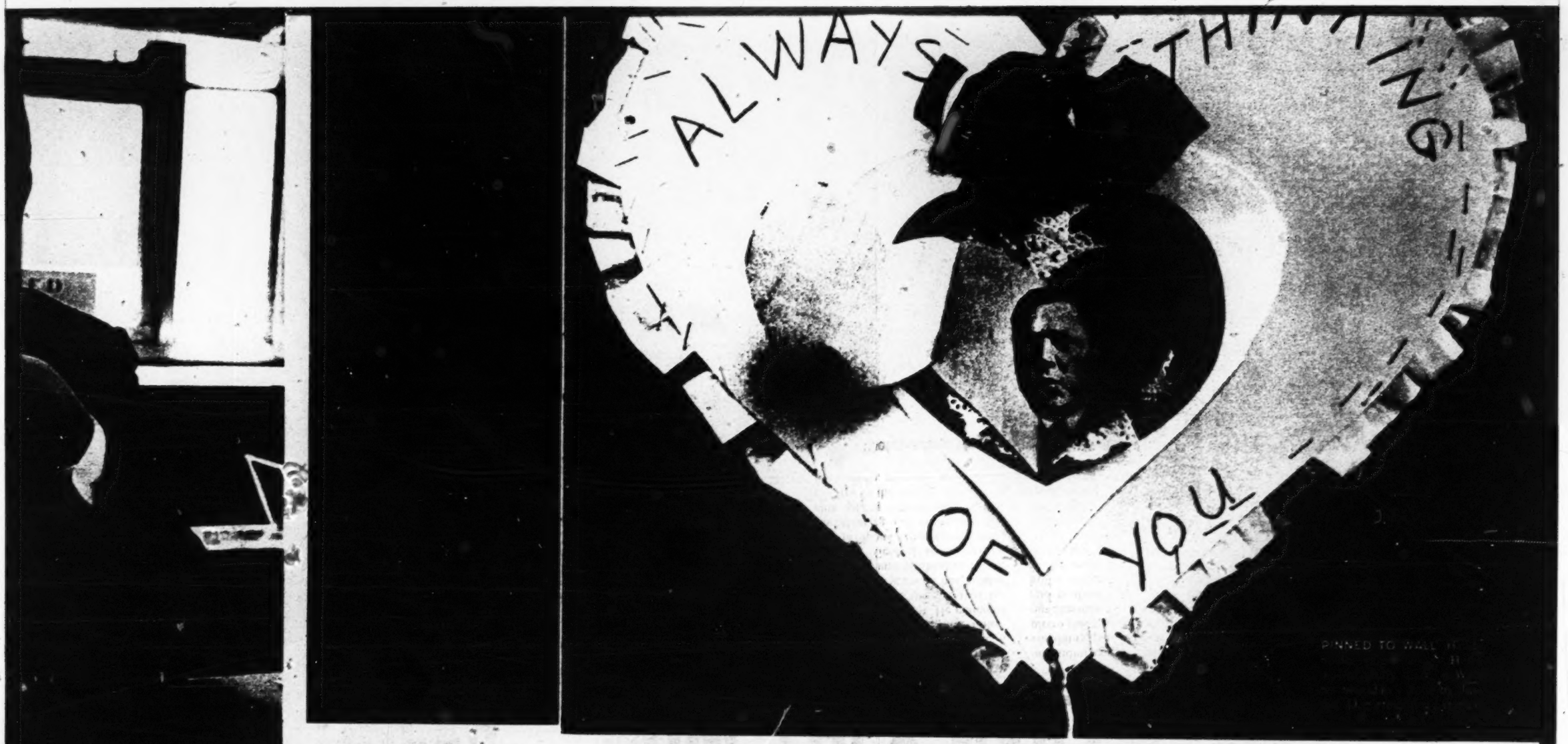
The words of Jury Foreman Hal W. Bullen hung for a moment over the 100 people who were packed into the small, dark-paneled Chattanooga courtroom: James Riddle Hoffa had been found guilty on two counts of tampering with a federal court jury. Then the place erupted.

Hoffa himself, the squat, tough boss of a union which is capable of stopping virtually all commercial traffic in the U.S., sat stony-faced, fiddling with his glasses; then his shoulders slumped. Nearby, a neat, inconspicuous man broke into a big grin, bolted past marshals at the door and into the corridor, threw up his right hand and whooped, "Guilty . . . two counts!" Thus, with a completely uncharacteristic display of emotion, Walter Sheridan saluted the attainment of a goal he and Robert Kennedy had sought for the past seven years: bringing Jimmy Hoffa to justice.

In all that time Walt Sheridan had avoided even a faint reflection of the limelight. He managed to do so despite the fact that for the last three years he has headed the special unit established by the Attorney General to investigate and prosecute labor-management racketeering—an unprecedented elite among federal enforcement groups. In the closing days of his trial, Hoffa, perhaps sensing the

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Photographed for LIFE by A



HOFFA: HOW THEY NAILED HIM

by HENRY SUYDAM

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The man who brought Hoffa down does not fit the gangbuster image. Now 38, he stands 5 feet 8½ inches tall and weighs 165 pounds. He dresses conservatively and speaks softly. And he will never be a front-and-center figure in any case his special unit brings to trial. Alone among special unit members, he is not a lawyer. He wanted to become one but quit law school and became an FBI agent in order to support his growing family (he now has five children).

Sheridan first met Bob Kennedy on a stairway in the Senate Office Building in 1957. He asked Kennedy about a job on the Senate Rackets Committee and Kennedy, then chief counsel for the commit-

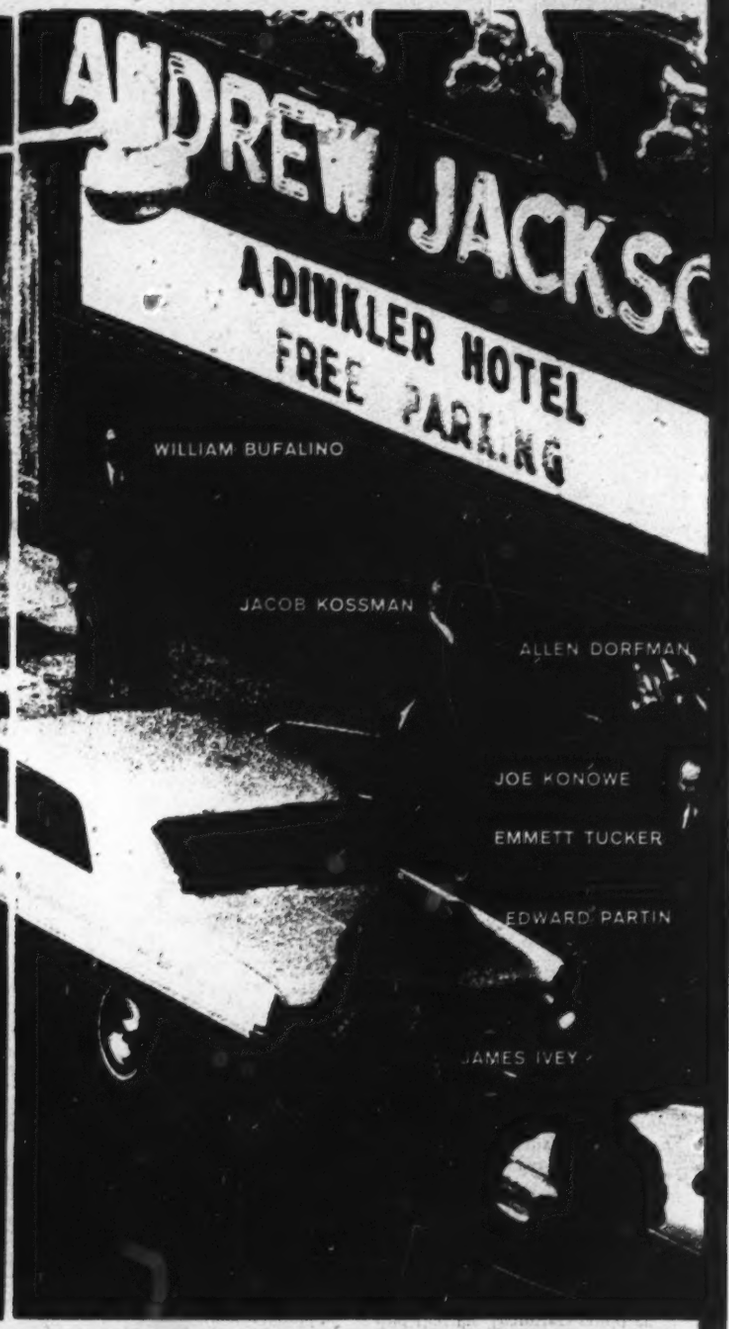
Photographed for LIFE by ARTHUR RICKERBY

CONTINUED 28

THE SECRET WITNESS GUARDED JIMMY'S DOOR







ORDEAL OVER. Partin reviews case with Sheridan after testifying at Chattanooga trial. On stand he told of his role in Nashville trial where he was working for Hoffa (*picture at right*) but cooperating with Sheridan.

HOFFA CONTINUED

tee, hired him as an investigator, checking out Hoffa and the Teamsters. Except for a brief interlude of campaign work in 1960, Sheridan's time since then has been taken up almost entirely by James Hoffa.

The day after Bob Kennedy decided to accept the Attorney General's post, he asked Walt Sheridan to come with him as head of a special unit.

"Things were a little vague at first," Sheridan recalls. "Bob just told me to get four or five top lawyers together and go to work, starting with Hoffa."

The special unit presently numbers 15 lawyers and investigators, mostly in their 30s. In its three years of existence this team has been directly or indirectly respon-

agent for Baton Rouge, La. Teamster Local No. 5, who was in jail because of a minor domestic problem, got in touch with Frank Grimsley, a special unit agent. Grimsley had worked on a case in which Partin had been indicted on charges of embezzling $1,600 in union funds.

Partin told Grimsley he had information of a "security nature," and Grimsley, on Sheridan's order, went to see him.

All that Partin disclosed during this first contact has not yet been made public. In any event, though it was met initially with skepticism, Partin's story was fully checked by the special unit. And in his continuing talks with Grimsley, Ed Partin also discussed his relationship with Jimmy Hoffa. It became clear Partin was getting fed up with the Teamster over-

Hoffa. The Teamster boss asked Partin to come up and see him in Nashville. Partin went. Before he left, Grimsley urged him to consider cooperating with the government, and gave him Sheridan's phone number in Nashville, where Sheridan also was awaiting the trial. Hoffa greeted Partin cordially. "We are going to try to get to one juror," he confided, "or to a few scattered jurors, and take

about Partin's new role. Only Walter Sheridan was in direct contact with him. For the next 16 months, no matter where the men were, Sheridan and Partin were in almost daily contact.

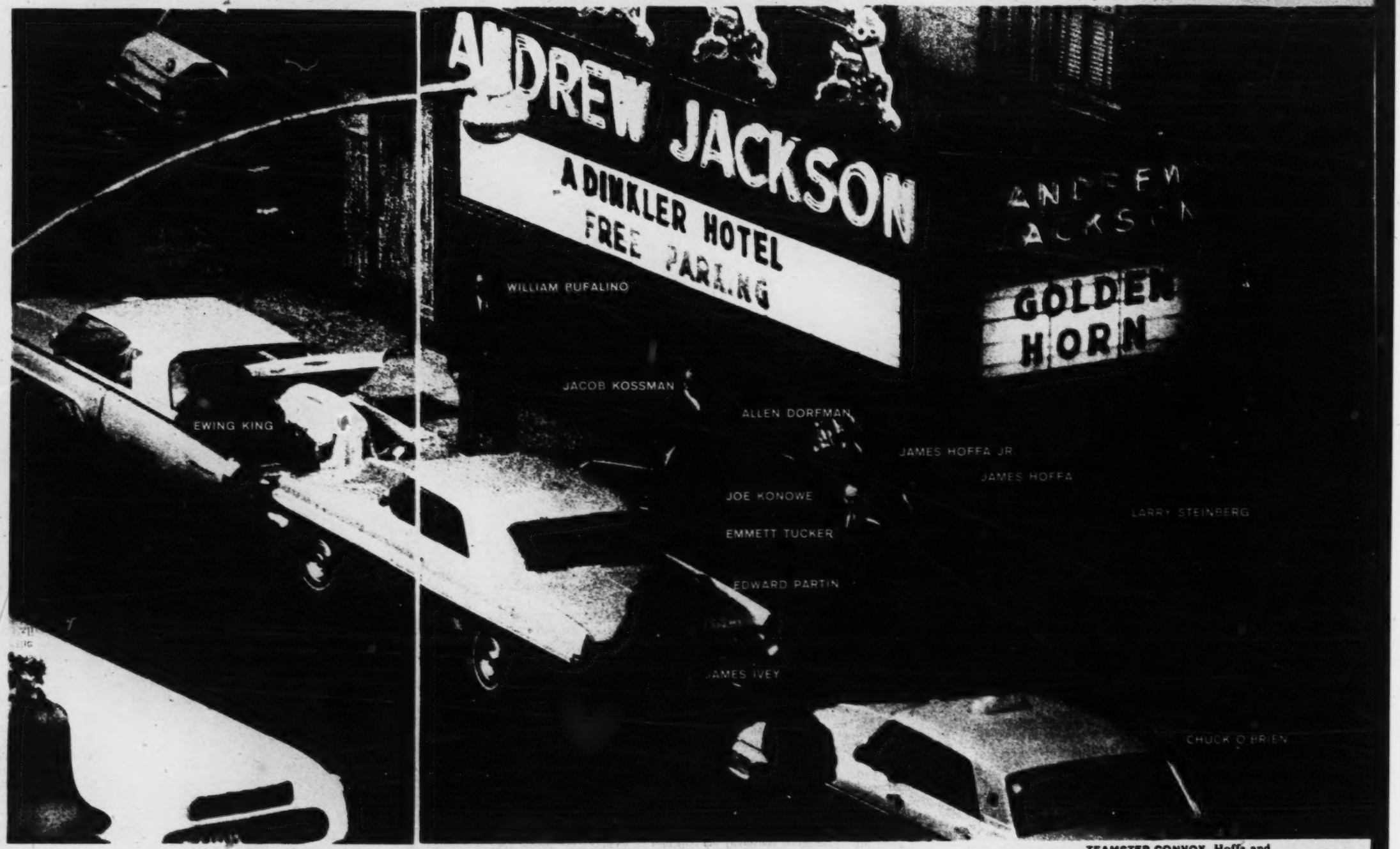
The first attempt to reach a juror in the Hoffa trial was clumsy. A Nashville insurance man, James C. Tippens, who had been

that his neighbor had offered him $10,000." Partin passed along news of this reaction to Sheridan.

On Oct. 26, Partin got word to Sheridan that an attempt would be made to get to a juror named Betty Paschal through her husband, a state highway patrolman supposedly eager for a promotion. At Sheridan's direction, FBI agents staked out Ewing King, president

FBI agents trailed King through a maze of meetings and car switches to a final confrontation with Paschal, where the patrolman was told that the Teamsters could get him promoted; it was suggested also that he might "talk to" his wife. This Paschal later denied he had done.

Meanwhile, Hoffa boasted to Partin that another juror—a man



TEAMSTER CONVOY. Hoffa and entourage leave Nashville hotel during 1962 trial in which jury-fixing attempt was made. With Hoffa are Partin; Teamster attorneys William Bufalino, Jacob Kossman; aides Joseph Konowe, Larry Steinberg, James Ivey, Emmett Tucker, Chuck O'Brien.

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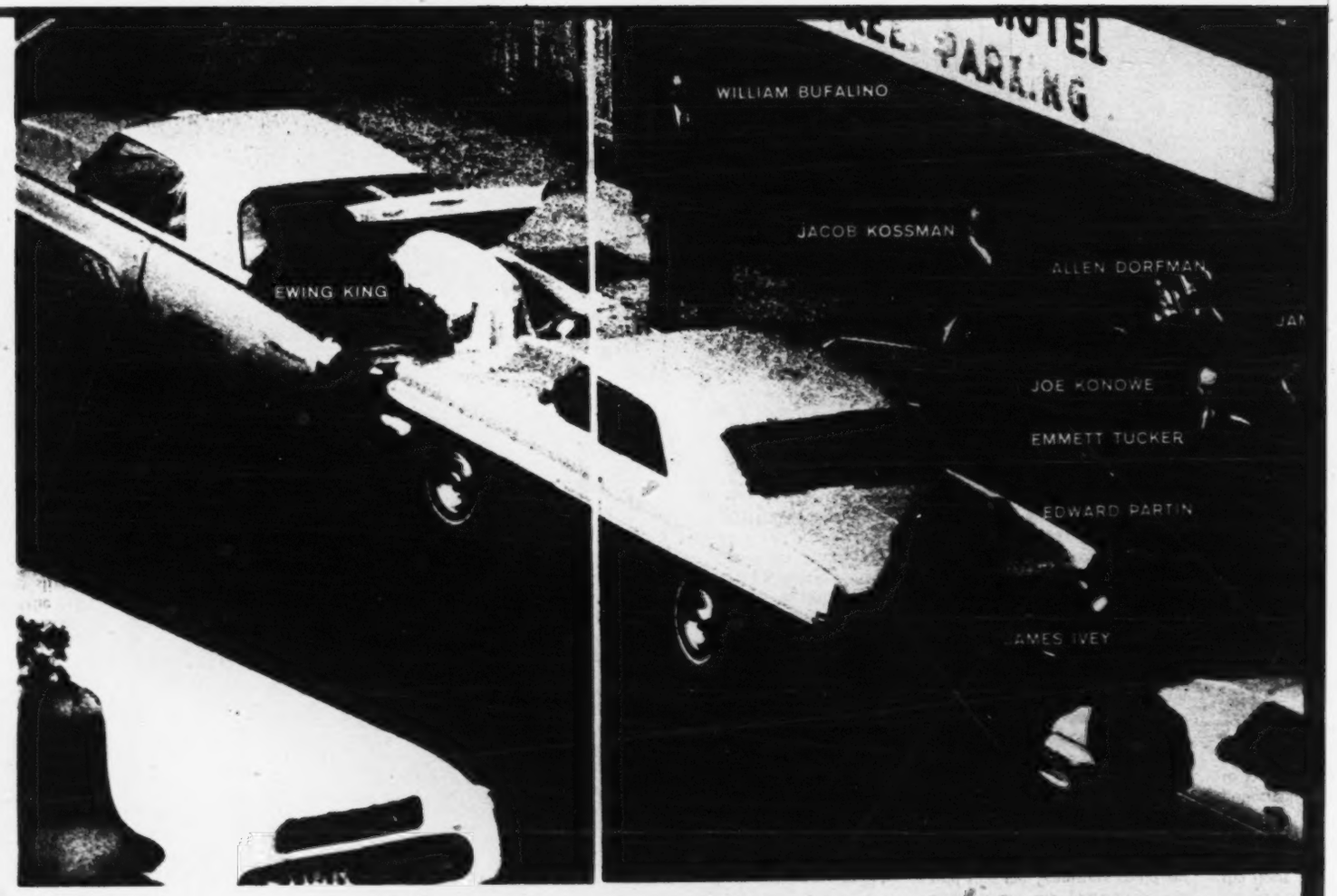
on him, that his room was bugged, that the prosecution knew in advance every move he made. He assigned a trusted lieutenant to guard the door to his hotel room. The guard was Edward Partin.

Partin's job grew touchier when Hoffa hired six off-duty Nashville policemen—at $50 per day each—to keep a watch on the FBI, the prosecutors, Walt Sheridan, and whoever else might be tailing the

flashed him a five-finger salute. King took the Fifth Amendment. Judge Miller ordered Mrs. Paschal dismissed.



ORDEAL OVER. Partin reviews case with Sheridan after testifying at Chattanooga trial. On stand he told of his role in Nashville trial where he was working for Hoffa (*picture at right*) but cooperating with Sheridan.



HOFFA CONTINUED

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The day after Bob Kennedy decided to accept the Attorney General's post, he asked Walt Sheridan to come with him as head of a special unit.

"Things were a little vague at first," Sheridan recalls. "Bob just told me to get four or five top lawyers together and go to work, starting with Hoffa."

The special unit presently numbers 15 lawyers and investigators, mostly in their 30s. In its three years of existence this team has been directly or indirectly responsible for 176 Teamster-connected indictments. Of all those indicted who were brought to trial, only eight thus far have been acquitted. There have been 96 convictions.

It was ultimately Walt Sheridan's recommendation which led the government to hang its jury-tampering case on the testimony of one of Hoffa's own satraps, a man named Edward Partin. In early October 1962 Partin, a business agent for Baton Rouge, La. Teamster Local No. 5, who was in jail because of a minor domestic problem, got in touch with Frank Grimsley, a special unit agent. Grimsley had worked on a case in which Partin had been indicted on charges of embezzling $1,600 in union funds.

Partin told Grimsley he had information of a "security nature," and Grimsley, on Sheridan's order, went to see him.

All that Partin disclosed during this first contact has not yet been made public. In any event, though it was met initially with skepticism, Partin's story was fully checked by the special unit. And in his continuing talks with Grimsley, Ed Partin also discussed his relationship with Jimmy Hoffa. It became clear Partin was getting fed up with the Teamster overlord. Grimsley reported this interesting fact to Sheridan.

Meanwhile, the special unit was preparing a case against Hoffa for allegedly having shared in a $1 million payoff from a Michigan trucking firm in return for guaranteeing labor peace.

On Oct. 18, four days before the beginning of the trial in Nashville, Partin—in Baton Rouge and again a free man—telephoned Hoffa. The Teamster boss asked Partin to come up and see him in Nashville. Partin went. Before he left, Grimsley urged him to consider cooperating with the government, and gave him Sheridan's phone number in Nashville, where Sheridan also was awaiting the trial. Hoffa greeted Partin cordially. "We are going to try to get to one juror," he confided, "or to a few scattered jurors, and take our chances."

On Monday evening, Oct. 22, 1962, Partin got off by himself, picked up a phone and called Walt at Nashville's Noel Hotel. Sheridan instructed Partin never to leave the Teamster group unless he could slip away inconspicuously, never to phone except from a pay booth away from his hotel.

Only six persons, including Attorney General Kennedy, knew about Partin's new role. Only Walter Sheridan was in direct contact with him. For the next 16 months, no matter where the men were, Sheridan and Partin were in almost daily contact.

The first attempt to reach a juror in the Hoffa trial was clumsy. A Nashville insurance man, James C. Tippens, who had been accepted by the prosecution as a juror, was offered $10,000 by a local man. He rejected it and told his story to the trial judge, William E. Miller. The judge called attorneys for both sides, told them of the incident, dismissed Tippens from the jury.

The next day, Hoffa angrily informed Partin they would have to "lay low for a while, because the bastard came in and told the judge that his neighbor had offered him $10,000." Partin passed along news of this reaction to Sheridan.

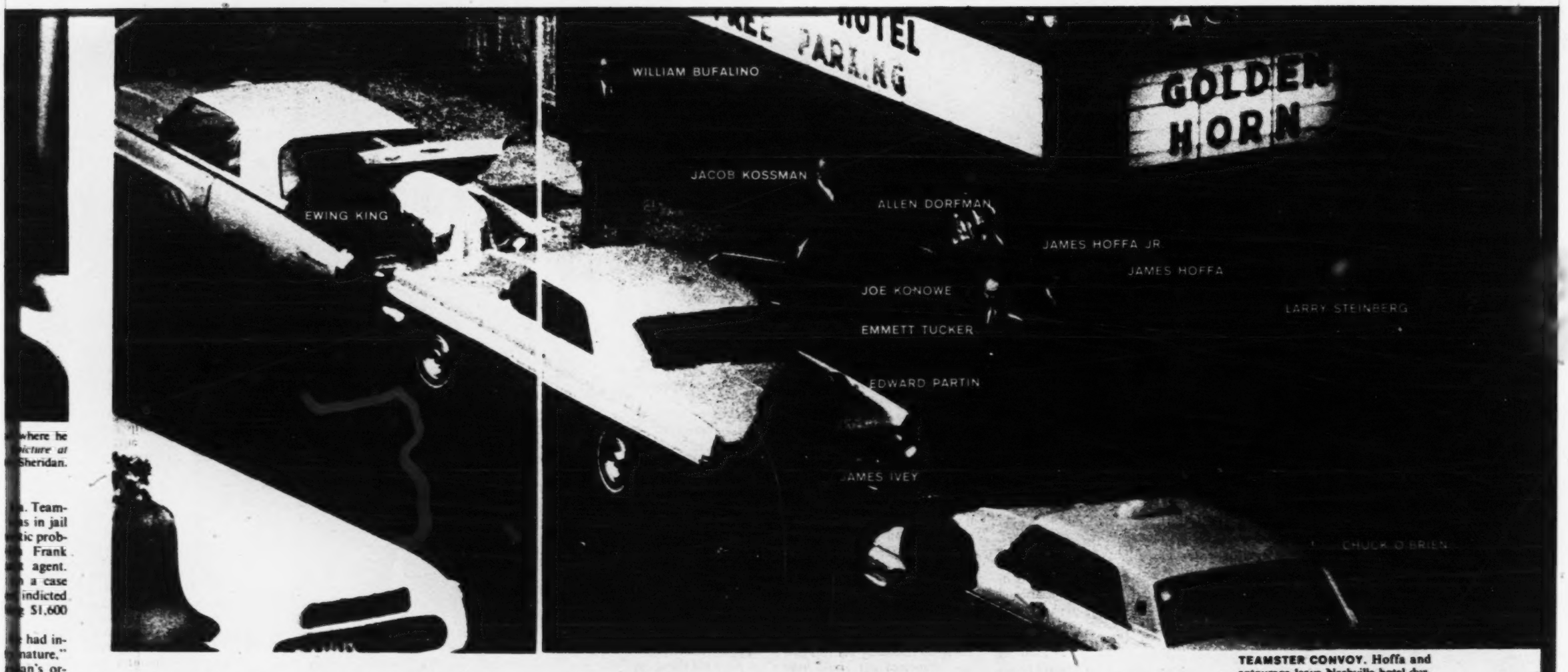
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On the night of Nov. 17, Sheridan got a cryptic call: "Topcat's moving." "Topcat" was the special unit's code name for Ewing King. (There were some other code names: Joe Cigarette, Bagels, Somebody, Canada Smith, Cotton Picker, Silver Fox, Cough Drop, Jimmy Hoffa was Himself, Ed Partin was Andy Anderson.) FBI agents trailed King through a maze of meetings and car switches to a final confrontation with Paschal, where the patrolman was told that the Teamsters could get him promoted; it was suggested also that he might "talk to" his wife. This Paschal later denied he had done.

Meanwhile, Hoffa boasted to Partin that another juror—a man named Gratin Fields—was "in our hip pocket." Actually Larry Campbell, a business agent for a Detroit Teamster local, tried and failed to reach Fields with a bribe offer through Fields's son.

Hoffa's mood, Partin reported, was one of mounting fury. He was sore at King for not getting Patrolman Paschal to take money—the bribe would have "pinned him down." Hoffa was convinced that federal men were eavesdropping on him, th
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TEAMSTER CONVOY. Hoffa and entourage leave Nashville hotel during 1962 trial in which jury-fixing attempt was made. With Hoffa are Partin; Teamster attorneys William Bufalino, Jacob Kossman; aides Joseph Konowe, Larry Steinberg, James Ivey, Emmett Tucker, Chuck O'Brien.

Hoffa. The Teamster boss asked Partin to come up and see him in Nashville. Partin went. Before he left, Grimsley urged him to consider cooperating with the government, and gave him Sheridan's phone number in Nashville, where Sheridan also was awaiting the trial. Hoffa greeted Partin cordially. "We are going to try to get to one juror," he confided, "or to a few scattered jurors, and take our chances."

On Monday evening, Oct. 22, 1962, Partin got off by himself, picked up a phone and called Walt at Nashville's Noel Hotel. Sheridan instructed Partin never to leave the Teamster group unless he could slip away inconspicuously, never to phone except from a pay booth away from his hotel.

Only six persons, including Attorney General Kennedy, knew about Partin's new role. Only Walter Sheridan was in direct contact with him. For the next 16 months, no matter where the men were, Sheridan and Partin were in almost daily contact.

The first attempt to reach a juror in the Hoffa trial was clumsy. A Nashville insurance man, James C. Tippens, who had been accepted by the prosecution as a juror, was offered $10,000 by a local man. He rejected it and told his story to the trial judge, William E. Miller. The judge called attorneys for both sides, told them of the incident, dismissed Tippens from the jury.

The next day, Hoffa angrily informed Partin they would have to "lay low for a while, because the bastard came in and told the judge that his neighbor had offered him $10,000." Partin passed along news of this reaction to Sheridan.

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Partin's job grew touchier when Hoffa hired six off-duty Nashville policemen—at $50 per day each—to keep a watch on the FBI, the prosecutors, Walt Sheridan, and whoever else might be tailing the Teamsters.

On Dec. 6, the special unit's chief prosecutor, Jim Neal, asked Judge Miller for a closed session, at which he asked for Mrs. Paschal's removal from the jury. ("Hoffa went white," Neal recalls.) The judge sent marshals to bring in Ewing King and Paschal. As King was brought in, Hoffa flashed him a five-finger salute. King took the Fifth Amendment. Judge Miller ordered Mrs. Paschal dismissed.

On Dec. 20, the day before the case was to go to the jury, Neal again went to the judge, this time to ask Gratin Fields's removal. He handed the judge a sealed envelope containing Sheridan's summary of Partin's story. Judge Miller read it, ordered the envelope resealed and, to the consternation of Hoffa's attorneys, ordered Fields dismissed from the trial jury. (Both Fields's son and Patrolman Pas-

CONTINUED 2

JUSTICE KEPT ITS BOMBSHELL HIDDEN AWAY IN THE WOODS

HOFFA CONTINUED

chal later appeared as prosecution witnesses in the Chattanooga jury-tampering trial.) Alternate jurors filled in for both Mrs. Paschal and Mr. Fields on the jury, which then deadlocked, 7–5 for acquittal, after two days of deliberation.

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"But asking him to take the stand in open court meant exposing him as an informer, jeopardizing his job—maybe much worse."

Sheridan confronted Partin with this prospect early in May of 1963 at Grimsley's house in Atlanta. "I've come this far," shrugged Partin. "Whatever you say."



On May 9, 1963, Hoffa was indicted, with others, for tampering with the Nashville jury.

After delays and a change of venue, the trial began on Jan. 20, 1964, before Federal Judge Frank W. Wilson in Chattanooga. At the outset Hoffa showed his customary confidence, born of a record of four federal trials and no convictions in seven years. He was still confident on Feb. 4—in fact, he seemed bored. But not for long.

In an office just down the hall from the courtroom, Ed Partin was waiting. He had slipped into the city three days earlier with Frank Grimsley and had been taken by Sheridan to the Fairyland Motor Court just over the Georgia border on Lookout Mountain. Here Partin was parked in a cottage with an around-the-clock guard of U.S. marshals. During the noon recess on Feb. 4—Hoffa and his attorneys were eating lunch—Sheridan secretly arranged to move Partin into the courthouse. Two special unit members had been stationed in the courthouse basement to hold the elevator for his arrival. When Partin, Sheridan and the four marshals came, they ducked into the basement and walked quickly into the elevator. One of the agents pushed the "5" button and turned the "nonstop" key he had obtained. Other marshals had already cleared the fifth floor, and the party walked to the special unit's suite. Sheridan and a marshal dropped down to check the courtroom on the third floor. The coast was clear. They returned to the fifth floor and walked Partin downstairs to the U.S. Marshal's office, very near the courtroom.

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Partin was on the stand 5½ days. During the entire period his credibility was under heavy attack by the eight defense attorneys. Each night he was taken from the courthouse under heavy guard. Twice he was moved to different private homes in the city.

Unquestionably, Partin's testimony was reaching the principal defendant. Hoffa's nervous gestures—pencil-tapping on the table, foot-drumming on the floor—increased in tempo and his temper outside the courtroom flared. He was overheard berating his lawyers: "That son-of-a-bitch is killing us." To Jim Neal he grated, "You're a whore, Neal. I'll hound you the rest of my life." Special unit member Bill French was also singled out: "You're a dirty spy. I'll see you on the wrong side of the bars."

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Sheridan knew from the beginning that anything less than a total, prolonged effort, a war of attrition—a "vendetta," according to Hoffa—would have resulted in more acquittals, more hung juries.

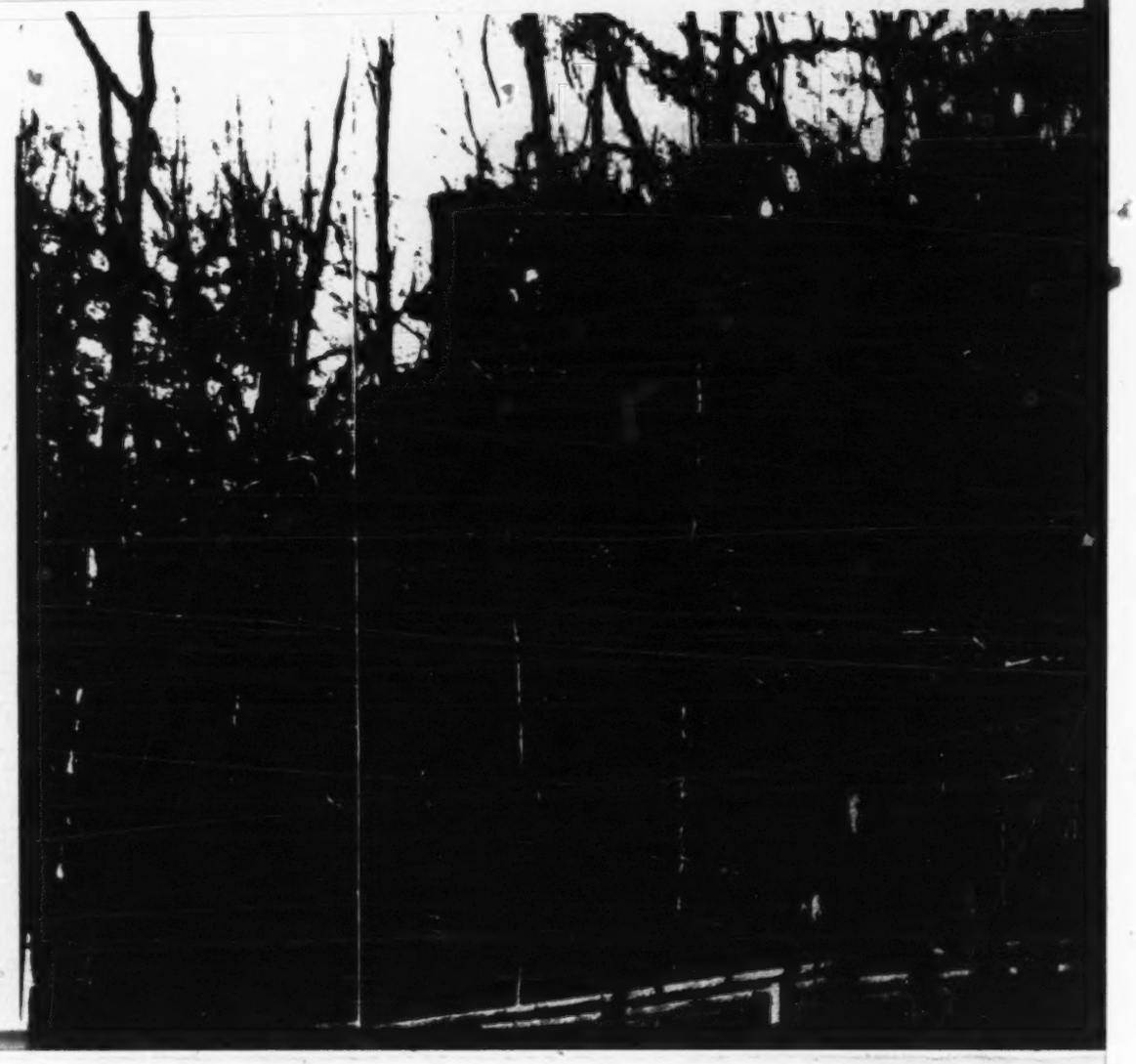
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Hoffa will, of course, appeal the conviction that could bring a prison sentence of up to 10 years. But he has by no means seen the last of Sheridan or the special unit. There is another case, set for Chicago on April 27—an indictment charging Hoffa with conspiracy to obtain $20 million in fraudulent loans from the Teamsters' Central States Pension Fund. Its maximum possible penalty would include 100 years in prison. Sheridan and the special unit take a proprietary interest in this case—they've been on it for two years.



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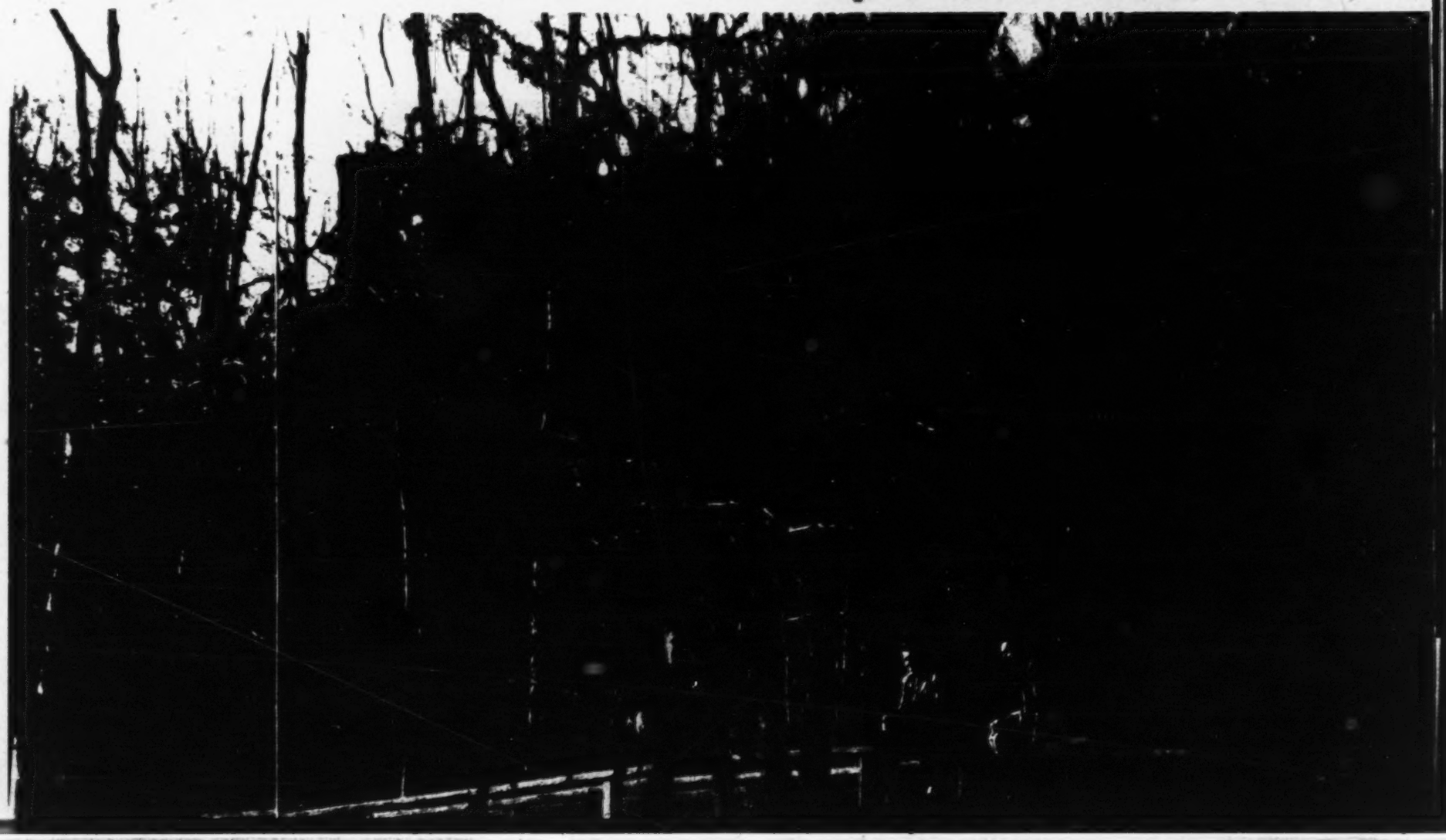
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GRIM JIMMY. After verdict Hoffa insisted he would not resign his job. "The members will be behind me."

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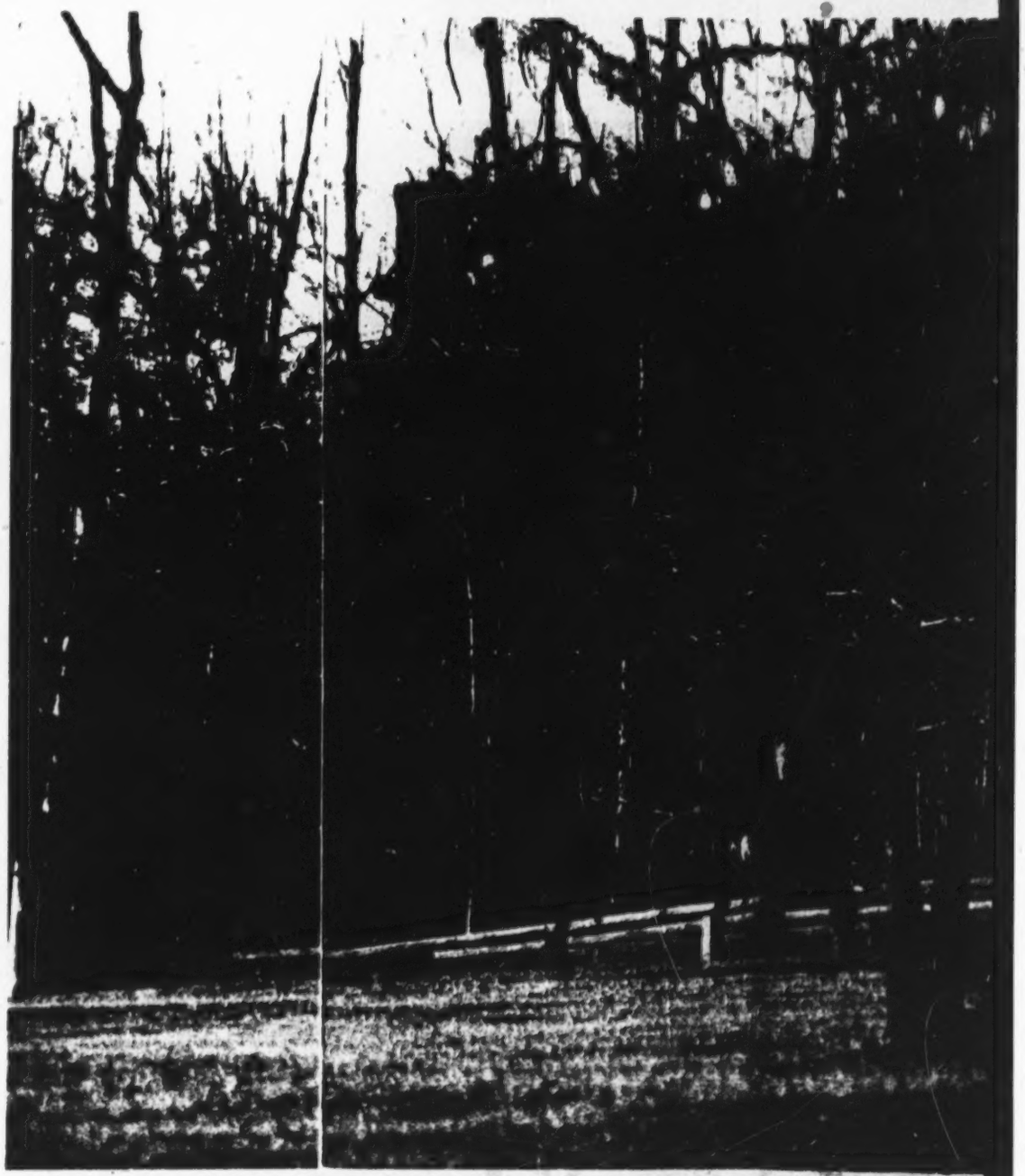
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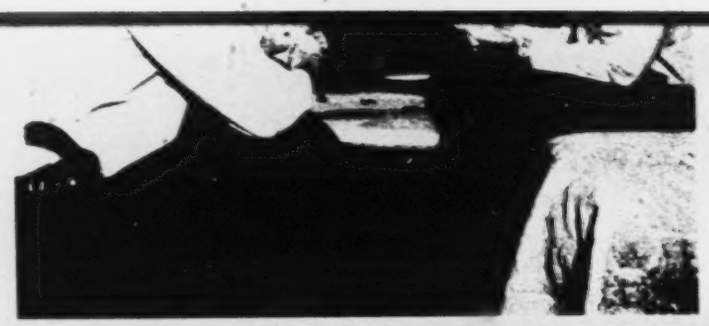
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[fol. 140]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

No. 11,989

UNITED STATES OF AMERICA,

v.

JAMES R. HOFFA.

JUDGMENT AND COMMITMENT—March 12, 1964

On this 12th day of March, 1964 came the attorney for the government and the defendant appeared in person and by counsel.

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Four (4) Years and a fine of Five Thousand ($5,000.00) Dollars, in Count Three of the indictment; Four (4) Years and a fine of Five Thousand ($5,000.00) Dollars, in Count Five of the indictment; sentence imposed in Count Five to run consecutive to the sentence imposed in Count Three of the indictment.

It Is Adjudged that defendant is to stand committed until payment of the fine imposed in both counts.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Frank W. Wilson, United States District Judge.

[File endorsement omitted]

[fol. 141]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION
No. 11,989

UNITED STATES OF AMERICA,

v.

LARRY CAMPBELL.

JUDGMENT AND COMMITMENT—March 12, 1964

On this 12th day of March, 1964 came the attorney for the government and the defendant appeared in person and by counsel.

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Three (3) Years.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Frank W. Wilson, United States District Judge.

[File endorsement omitted]

[fol. 142]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

No. 11,989

UNITED STATES OF AMERICA,

v.

THOMAS EWING PARKS.

JUDGMENT AND COMMITMENT—March 12, 1964

On this 12th day of March, 1964 came the attorney for the government and the defendant appeared in person and by counsel.

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Three (3) Years.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Frank W. Wilson, United States District Judge.

[File endorsement omitted]

[fol. 143]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

No. 11,989

UNITED STATES OF AMERICA,

v.

EWING KING.

JUDGMENT AND COMMITMENT—March 12, 1964

On this 12th day of March, 1964 came the attorney for the government and the defendant appeared in person and by counsel.

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Three (3) Years.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Frank W. Wilson, United States District Judge.

[File endorsement omitted]

[fol. 144]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

ORDER ON MOTIONS FOR NEW TRIAL, ACQUITTAL, AND ARREST OF JUDGMENT—Filed March 14, 1964

The following motions were filed upon March 10, 1964, by and on behalf of each of the defendants, James R. Hoffa, Larry Campbell, Thomas Ewing Parks, and Ewing King:

(1) Motion for new trial;

(b) Renewed motion for judgment of acquittal; and

(c) Motion in arrest of judgment.

The Court having now considered each of the said motions and each ground thereof is of the opinion that each of the said motions and each ground thereof should be overruled. A memoranda of the Court will be filed with respect to various grounds in the motions.

It is therefore Ordered that the motion for new trial, renewed motion for judgment of acquittal, and motion in arrest of judgment filed March 10, 1964 on behalf of each of the defendants, James R. Hoffa, Larry Campbell, Thomas Ewing Parks, and Ewing King, be and hereby is overruled as to each ground thereof.

Enter:

Frank W. Wilson, United States District Judge.

[File endorsement omitted]

[fol. 145]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

NOTICE OF APPEAL OF DEFENDANT JAMES R. HOFFA—
Filed March 18, 1964

Name and address of Appellant: James R. Hoffa, 16154 Robson, Detroit 35, Michigan.

Name and address of Appellant's attorneys: James E. Haggerty, Sr., 3250 Guardian Building, Detroit 16, Michigan; Harry Berke, Volunteer Building, Chattanooga, Tennessee.

Offense: James R. Hoffa was convicted on Counts 3 and 5 of the indictment, which Count 3 charged a violation of Sections 2 and 1503 of Title 18 of the United States Code, alleging that the Appellant did aid, abet, counsel, command, induce, and procure an endeavor to influence, intimidate and impede a petit juror of the United States District Court of the Middle District of Tennessee, Nashville Division, to wit, Gratin Fields, in the discharge of his duty as such juror; and which Count 5 charged that the Appellant did aid, abet, counsel, command, induce, and procure an endeavor to influence, intimidate and impede a petit juror of the United States District Court of the Middle District of Tennessee, Nashville Division, to wit, Mrs. James M. Paschal, in the discharge of her duty as such juror.

Judgment: On March 12, 1964, the District Court entered a judgment of conviction against the Appellant on said [fol. 146] Counts 3 and 5 of the indictment and sen-

tenced the Appellant to four years and $5,000.00 fine on each count respectively to run consecutively. Defendant is now on bail.

I, the above-named Appellant, hereby appeal to the United States Court of Appeals for the Sixth Circuit from the above-stated judgment.

James R. Hoffa, Appellant.

Dated: March 18, 1964

Harry Berke, Atty.

[File endorsement omitted]

[fol. 147]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

NOTICE OF APPEAL OF DEFENDANT THOMAS EWING PARKS—Filed March 18, 1964

Name and address of Appellant: Thomas Ewing Parks, Nashville, Tennessee.

Name and address of Appellant's Attorney: Jacques M. Schiffer, 46 Andover Road, Rockville Center, Long Island, New York.

Offense: Thomas Ewing Parks was convicted on Count 3 of the Indictment which count charged a violation of Section 1503 of Title 18 of the United States Code, alleging that the Appellant did endeavor to influence, intimidate and impede a petit juror of the United States District Court of the Middle District of Tennessee, Nashville Division, to wit: Gratin Fields, in the discharge of his duty as such juror.

Judgment: On March 12, 1964, the District Court entered a judgment of conviction against the Appellant on said Count 3 of the indictment and sentenced the Appellant to 3 years.
Defendant is on bail.

I, the above named appellant, hereby appeal to the United States Court of Appeals for the Sixth Circuit from the above-stated judgment.

Dated: March 18, 1964

J. M. Schiffer, Appellant's Attorney.
Thomas Ewing Parks

[File endorsement omitted]

[fol. 148]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

NOTICE OF APPEAL OF DEFENDANT LARRY CAMPBELL—
Filed March 18, 1964

Name and address of Appellant: Larry Campbell, 26972 Ross, Inkster, Michigan.

Name and address of Appellant's attorney: Cecil D. Branstetter, 216 Third Avenue, North, Nashville, Tennessee.

Offense: Larry Campbell was convicted on Count 3 of the indictment, which count charged a violation of Sections 2 and 1503 of Title 18 of the United States Code, alleging that the Appellant did aid, abet, counsel, com-

mand, induce and procure an endeavor to influence, intimidate and impede a petit juror of the United States District Court of the Middle District of Tennessee, Nashville Division, to wit, Gratin Fields, in the discharge of his duty as such juror.

Judgment: On March 12, 1964, the District Court entered a judgment of conviction against the Appellant on said Count 3 of the indictment and sentenced the Appellant to three years.
Defendant is now on bail.

I, the above-named Appellant, hereby appeal to the United States Court of Appeals for the Sixth Circuit from the above-stated judgment.

Larry L. Campbell, Appellant.
Cecil D. Branstetter, Attorney, 216 3rd Ave. N., Nashville, Tenn.

Dated: March 18, 1964

[File endorsement omitted]

[fol. 149]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

[Title omitted]

NOTICE OF APPEAL OF DEFENDANT EWING KING—
Filed March 18, 1964

Name and Address of Appellant: Ewing King, Nashville, Tennessee.

Name and Address of Appellant's Attorney: Harold E. Brown, 1118 James Building, Chattanooga, Tennessee.

Offense: Ewing King was convicted on Count 5 of the indictment, which count charged a violation of Section 1503 of Title 18 of the United States Code, alleging that the Appellant did endeavor to influence, intimidate and impede a petit juror of the United States District Court of the Middle District of Tennessee, Nashville Division, to wit, Mrs. James M. Paschal, in the discharge of her duty as such juror.

Judgment: On March 12, 1964, the District Court entered a judgment of conviction against the Appellant on said Count 5 of the indictment and sentenced the Appellant to Three (3) years.
Defendant is Now on bail.

I, the above-named Appellant, hereby appeal to the United States Court of Appeals for the Sixth Circuit from the above-stated judgment.

Dated: March 18, 1964.

Ewing King, Appellant.

[File endorsement omitted]

[fol. 150]

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Criminal No. 11,989

UNITED STATES OF AMERICA,

—VS.—

JAMES R. HOFFA; LARRY CAMPBELL; THOMAS EWING PARKS; and EWING KING.

MEMORANDUM ON MOTION FOR NEW TRIAL—
Filed April 8, 1964

Motions for new trial were filed upon behalf of the defendants, James R. Hoffa, Larry Campbell, Thomas Ewing Parks, and Ewing King. The motions are identical except with reference to Ground 91. The defendants, Campbell, Parks, and King, complain of error in Ground 91 in that they were taken before a grand jury, whereas no similar ground exists in the motion of the defendant Hoffa. Having considered each ground of the respective motions and having been of the opinion that each ground was without merit and should be overruled, an order to that effect has heretofore entered. This memorandum is filed to set forth in part the reasons of the Court in overruling the motions for new trial. No attempt shall be made by the Court in this memorandum to deal with each ground in each motion. Moreover, the Court shall here deal largely with matters of fact in the transcript of the proceedings, the authorities having been fully briefed and set forth in multiple trial briefs and in the voluminous arguments set forth in the transcript.

Often the reasons of the Court for overruling a ground in the motions for new trial are readily apparent by reference to a citation in the transcript. In some instances the [fol. 151] grounds stated in the new trial motions are of so general a nature or are so broad in scope as to require a reference to the full record for a full response thereto. In many instances an understanding of the full record is appropriate to a full understanding of the Court's action in overruling a particular ground in the motion. Rather than attempt to consider each ground in the order set forth in the new trial motions, the Court shall deal with related grounds, though such related grounds are often not set forth in numerical order.

• • • • • • •

[fol. 152]

Assignments of Error Based Upon Non-Production of Jencks Act Statements

Objections are made in Grounds 28, 29, 44, 45, and 46 with regard to the action of the Court upon matters relating to the examination and production of Jencks Act statements (18 U.S.C. 3500). The Court is of the opinion that no error was committed with reference to any of the matters complained of in these respective grounds. In each instance where a government agent testified to having disposed of his original notes of an interview, the testimony was undisputed that the original notes had been fully and accurately incorporated into the typewritten interview report prepared from the notes before the notes were disposed of. With regard to the notes and reports of Walter Sheridan, a government agent, of his interview with the witness Partin, these notes were clearly not subject to production under 18 U.S.C., Sec. 3500. The notes did not in any sense purport to be a statement of the witness Partin. The record reflects that they were never seen by him nor read to him. They did not constitute "a written statement made by said witness and signed or otherwise adopted or approved by him." In fact, the notes are so cryptic as not to constitute

a "statement" in any sense of the word. Likewise the record is undisputed that the later narrative summary prepared by Sheridan some several months after the notes were [fol. 153] taken was never seen by nor read to the witness Partin, nor was the narrative summary in any way signed or adopted or approved by Partin. The summary was not in any sense the "statement" of the witness Partin subject to production under 18 U.S.C. 3500.

Assignments of Error Based Upon Alleged Illegal Evidence (Telephone Tapes)

Objections are made in Grounds 30, 43, 47, 49, 50, and 52 with regard to matters pertaining to two recorded telephone conversations between the witness Partin and the defendant Hoffa. A full understanding of the matters referred to in these grounds requires a reading of a very substantial portion of the record. By way of summary, it may be stated that the record reflects that prior to going to Nashville and prior to the Nashville trial, the witness Partin recorded two relatively short telephone conversations which he had with the defendant Hoffa. These conversations were upon October 8 and 18, 1962, respectively, and related to an appointment for Mr. Partin to see Mr. Hoffa in Nashville. The recordings of these telephone calls were introduced in the record as Exhibits 196 and 197 and the typewritten transcriptions of these recordings were introduced as Exhibits 215 and 216 and were read unto the jury by the defendants (Tr., Vol., XXIX, pp. 7540-7551). During the examination of the witness Partin, in response to the defendants' requests for various Jencks Act statements, the Government submitted for examination of the Court an affidavit by Partin (Exhibit 108) which was made available by the Court to the defendants at the time (Tr., Vol. XIV, p. 3404-3440). Subsequently on February 10, [fol. 154] 1964, further documents were submitted to the Court, including the two typewritten transcriptions of the telephone calls made October 8 and 18 by Partin to Hoffa and recorded by Partin (Exhibit 118). These documents

were not made available at that time as documents producible under the Jencks Act, as they clearly were not "statements," as defined in 18 U.S.C. 3500(e) made by a witness "to an agent of the Government" (Tr., Vol. XVII, pp. 4022 and 4032). At various times in the record further proceedings were had in connection with these telephone transcriptions. See Tr., Vol. XXII, p. 5384; Vol. XXIV, p. 6267; Vol. XXV, p. 6503-6516; Vol. XXVIII, p. 7179. At a later stage in the proceedings, the tapes or recordings from which the two telephone transcriptions were taken were tendered to the Court with a government response filed February 19, 1964, to a defense motion to produce (Tr., Vol. XXIV, p. 6267), and these tapes were filed for the record by the Court on February 20, 1964, as Exhibits 196 and 197. The defendants filed a motion to suppress based upon alleged illegal telephone transcriptions and the Court advised that it would grant a hearing upon the motion and make available to the defendants the transcriptions in connection with this hearing. However, in connection with the examination by the defendants of witnesses Daniels and Grimsley, it appeared proper to the Court that the transcript of the telephone calls should be made available to the defendants upon the defendants' motions to produce and the documents and tapes were made available to the defendants upon February 25, 1964, and, as noted above, were thereafter read to the jury by the defendants. The extent to which there was any conflict between the telephone transcriptions and the testimony of the witness Partin was fully [fol. 155] presented to the jury. The defendants never thereafter sought in any way to further examine or cross-examine the witness Partin with regard to these telephone transcriptions or calls, although Partin was present and produced in the courtroom as late as the final day of testimony before the jury (Tr., Vol. XXX, pp. 7920 and 7955). It should also be noted that a full hearing was granted upon the defendants' motions to suppress based upon the alleged illegality of the telephone recordings (Tr., Vol. XXXI, pp. 8024-8207).

With respect to Ground 49, it is contended that the Court was in error in permitting the witness Partin to testify falsely that no recordings were made of the telephone conversations with the defendant Hoffa. The argument was made throughout the trial that the witness had so falsely testified, but upon request of the Court for a citation in the record of where this occurred, no citation was ever given. The witness Partin did testify that to his knowledge no recordings were ever made of his conversations with the defendant Hoffa while in Nashville. In any event, the fact of the recordings, as well as the contents of the recordings themselves, were fully presented to the jury and the jury was fully apprised with respect thereto and the truth or falsity of the witness Partin's testimony in this respect was for the jury to decide.

With respect to Ground 50, it is contended that the Court was in error both with regard to the telephone transcriptions and with regard to a tape alleged to have been in the possession of the Government and relating to a conversation between the witness Partin and Assistant United States Attorney Duffey. The recordings with reference to the telephone transcriptions has been stated above. The tape referred to in Ground 50 was a tape introduced by [fol. 156] the witness Pitcher, the State District Attorney from Baton Rouge, Louisiana, who was presented as a defense witness long after the witness Partin had been examined and cross-examined and the Government had closed its proof (Tr., Vol. XXXVII, pp. 7135-7140). The Court listened to the tape in full and determined that its content was irrelevant and incompetent and the tape was filed as sealed Exhibit 217 (Tr., Vol. XXVIII, p. 7180). As noted above, no request was made by any defendant to further examine or cross-examine the witness Partin at any time before both the Government and the defense had fully rested their proof.

Assignments of Error Based Upon Scope of Cross-Examination of the Witness Partin

In Grounds 34, 35, 36, 37, and 38 of the defendants' respective motions for new trial, objections are made to the rulings of the Court relating to the cross-examination of the witness Edward G. Partin.

The cross-examination of witness Partin began upon Thursday, February 6, 1964. It continued from day to day thereafter through Wednesday, February 12, 1964. A reading of the record of the full cross-examination of this witness is itself sufficient to reflect a lack of any error in the matters complained of aside from consideration of other portions of the record. For example, considering the first full day of cross-examination of Mr. Partin by counsel for Mr. Hoffa, with regard to the complaint in Ground 34 that the Court failed to admonish the witness to be responsive, the record reflects that the Court gave such instructions to the witness on not less than nine occasions, being almost each occasion a request for such an instruction was made by any defendant (Tr., Vol. XV, pp. 3504, 3592, 3596, [fol. 157] 3614, 3619, 3645, 3654, 3658, 3673). With regard to the scope of the cross-examination, the Court, during the first full day of cross-examination, other than sustaining objections to the form of questions as being argumentative, sustained only four objections: (1) Upon questioning the witness about an alleged rape charge in 1948, upon which an indictment had been dismissed, the examination was limited to the purpose of testing the witness's memory, the purpose for which it was stated to be offered by defendant's counsel (Tr., Vol. XV, p. 3481-83); (2) in order to avoid prejudice to any defendant, cross-examination of the witness before the jury about an alleged threat by Mr. Hoffa to kill the Attorney General, a matter unrelated to the issues of this lawsuit, was denied (Tr., Vol. XV, pp. 3512-3535); (3) cross-examination of the witness in regard to rumors of dealings with Castro or Cuban officials was denied (Tr., Vol. XV, p. 3559); and (4) an objection was sustained to a question about whether the witness was stay-

ing by himself while attending court in Chattanooga.

In overruling numerous government objections to the scope of the cross-examination, the Court upon one occasion stated:

> "Just a moment, gentlemen. I want to give the defendants the right to broad examination. Ordinarily a matter of charges as distinguished from convictions are not proper items for cross-examination. I am going to overrule, though, and let the witness answer." (Tr., Vol. XV, p. 3473)

Again in permitting cross-examination about an indictment where there had been no conviction, the Court stated:

> "I have advised you the Court is attempting to give the broadest possible cross-examination . . ." (Tr., Vol. XV, p. 3502)

[fol. 158] Ground 37 of each defendant's motion for new trial alleges error in that the Court permitted the witness Partin to refuse to answer a question on the ground of self-incrimination. This ground refers to a portion of the cross-examination where the witness was being cross-examined about an alleged automobile accident and a pending indictment for manslaughter growing out of the same. The justification of the cross-examination purported to be on the ground of testing the witness's memory. The following occurred, as reflected in the record:

> "Q. Well, were you driving the automobile?
>
> "A. I believe with a charge pending against me I don't think I would have to answer you on that, sir. I would like to get the Court to rule on it.
>
> "Q. I am asking you.
>
> "The Court: Well—
>
> "By Mr. Berke: Do you want to take the Fifth Amendment on that?
>
> "A. Certainly not.
>
> "Q. Well—

"The Court: The witness is not required to answer any question that might in any way tend to incriminate himself but other than that he would be required to respond.

"By Mr. Berke:

"Q. Answer that question, sir.

"A. I can't answer it under those circumstances, sir." (Tr., Vol. XV, p. 3562)

No objection was made to the Court's instruction, no objection was made to the witness declining to state whether he was driving the automobile, and no further request was made of the Court with regard to requiring the witness to answer this question.

With regard to the matters alleged in Ground 38 of the defendants' respective motions, relating to alleged dealings [fol. 159] by the witness Partin with Cuban officials, a full reading of the record will reveal that not only were such matters irrelevant and incompetent, but that no competent basis existed for making such charges, and no basis existed for stating that such matters were ever under investigation by federal authorities.

Finally, with regard to the scope of the cross-examination of the witness Partin in general, counsel for the defendant Hoffa had this to say:

"Mr. Berke: If Your Honor please, I make no complaint about the latitude that the Court gave me yesterday on cross-examination of this witness. I want the record to show that I make no such complaint. The Court has taken two or three matters under advisement, of course, which has hampered the cross-examination to some extent." (Tr., Vol. XVI, p. 3856)

Assignments of Error Based Upon Scope of Cross-Examination of Character Witnesses

Rulings of the Court with regard to the examination and cross-examination of character witnesses relating to the

character of the witness Edward G. Partin are complained of in Grounds 39, 54, 55, and 57 of the respective motions for new trial.

A proper consideration of these grounds requires a consideration of a very large portion of the record, if not the full record in the trial, for each of these assignments of error relate to the Court's exercise of discretion in the examination and cross-examination of witnesses. The problems confronting the Court and the rulings of the Court cannot properly be viewed in isolation from the rest of the record. While the action of the Court in each instance complained of is believed to have been clearly correct even when considered in isolation from other portions of the record, the Court did not make the rulings in isolation from the rest of the record.

[fol. 160] The problem of attempting to keep this case within some reasonable relationship to the issues on trial was at all times, to say the very least, most difficult. The tendency to try collateral, if not wholly irrelevant matters, such as the domestic and personal life of witnesses, the Attorney General of the United States, the Grand Jury, the Federal Bureau of Investigation, Teamsters Local No. 5 in Baton Rouge, Louisiana, and other such matters, was at all times very great. Even upon all such collateral matters, the Court sought to grant to the defendants the broadest possible freedom of examination, while at the same time limiting the Government quite strictly. For example, in the cross-examination of the witnesses for the Government, the Court permitted the defendants to go quite extensively into the personal life and background of these witnesses, while limiting the Government in its evidence and cross-examination of witnesses to convictions of felonies, as laid down in this circuit in the cases of *Smith* v. *United States,* 283 F.2d 16 (6th Cir., 1960); *Pearson* v. *United States,* 192 F.2d 681 at 699 (6th Cir., 1956).

By way of further illustration, with respect to the government witness Hazel Fulton, the defendants were per-

mitted to cross-examine her upon the details of her marital and personal life. Likewise with respect to the government witness Edward G. Partin, who was on the witness stand a total of six trial days and under cross-examination for five of these six days, the defendants were permitted to cross-examine exhaustively into his background, his marital life, rumors, charges, arrests, and indictments, and into his personal habits. Aside from matters relating to an alleged assassination plot, which was excluded to avoid prejudice to any defendant, almost the only limitation im- [fol. 161] posed by the Court with regard to the cross-examination of the witness Partin was with reference to the defendants' attempts to go into details of two charges—one, a charge of rape upon which the indictment had been dismissed some 15 years ago, and the other rumors and charges that arose in local union politics about alleged dealings by Partin with Cuban officials. Although neither of these involved a felony conviction, and only one even involved an indictment, the defendants were permitted to ask the witness Partin about these charges, but were not permitted to go into the details of these alleged charges and rumors. To have permitted a trial of the details of these charges would not only have been irrelevant and greatly prolonged the trial, but would have been highly improper. And yet, throughout the trial the defendants sought repeatedly to disregard and evade the rulings of the Court in this respect. They sought to introduce witnesses whose only purpose was to attempt to go into the details of these rumors and charges. They sought to go into such charges in the guise of cross-examining witnesses on their credibility and testing their memory.

With further regard to the witness Partin, the Court permitted the defendants to introduce six witnesses seeking to impeach his character and reputation rather than five as alleged in Ground 57, although the local rules of this court limit such cumulative witnesses to three in number (Tr., Vol. XXVII, p. 6923). See the testimony of de-

fense witnesses Tynes, Booth, Smith, Lewis, Albin, and Tillman. The Court on the other hand limited the Government to only three witnesses seeking to establish a good reputation for truth on behalf of the witness Partin, applying strictly the local rule in this regard (Tr., Vol. XXX, pp. 7781-82).

[fol. 162] With reference to the cross-examination of character witnesses introduced by the Government seeking to establish the reputation of the witness Partin for truthfulness, the Court again permitted the defendants a very broad cross-examination, including cross-examination on matters that could only be considered as rumors. In regard to the cross-examination of these witnesses, it should be pointed out (1) that the defense, not the Government, first put the character and reputation of Partin in issue by introducing witnesses as to his bad character, the reverse of the usual rule where a party places his own reputation in issue; (2) that upon direct examination the Government limited its examination solely to Partin's reputation for truth, and did not seek to go into his general character; (3) the defendants were permitted an extremely broad cross-examination of the government's character witnesses, including questions with regard to rumors and charges and including the presentation to each witness of a 14-page, single spaced typewritten document of matters alleged to reflect upon the character of Partin (Exhibit 237) with the Court requiring the examination to proceed only after a lengthy delay and silence while the witness examined the document in each instance; (4) the cross-examination not only greatly exceeded the scope of the direct examination and extended to matters of general reputation, upon which no direct examination had been made, but related to dates and times long before either of the witnesses knew Mr. Partin or purported to have any knowledge or information about his character or reputation.

It was only when it had become abundantly apparent from the nature of the cross-examination, the form of the

[fol. 163] questions being asked, the remoteness in time of the matters and rumors inquired about, and the obvious improper purpose of the cross-examination in the light of the entire record in the case, that the Court sought to impose any limitation upon the cross-examination of the character witnesses. Then the only limitation imposed by the Court was with reference to inquiring about the alleged rape charge and inquiring about the rumors of dealings with Cuba. It was at this point apparent to the Court that the purpose of the cross-examination was not to test either the knowledge or credibility of the witness upon the stand, nor examine him with reference to matters upon which he had testified, but rather to evade the former rulings of the Court and to seek to place before the jury by statements of counsel otherwise incompetent matters calculated to degrade the witness Partin and prejudice the jury. That this was the purpose of defense counsel was admitted when in argument it was stated:

> "Those are matters that go to his (i.e., Partin's) character and reputation." (Tr., Vol. XXX, p. 7823)

Even in the absence of all of the foregoing, the action of the Court in limiting cross-examination upon the alleged rape charge and the alleged dealings with Cuba, would have been a proper exercise of the Court's discretion in limiting the scope of cross-examination. The matter out of which the charge of rape was alleged to have arisen occurred in 1948, more than 16 years before this trial and more than eight years before either of the witnesses being cross-examined had any knowledge of the witness Partin. The rumors and charges relating to alleged dealings with Cuba not only were without legal basis, but, as shown in the cross-examination of the witness Partin, was [fol. 164] a matter circulated solely within the local union as a part of union politics, and not generally within the community.

Under all of these circumstances of this case, the Court was and is of the opinion that such limitation as was im-

posed upon the cross-examination of character witnesses was clearly a proper exercise of the Court's discretion. The rule with regard to the cross-examination of character witnesses is stated in 98 *C.J.S.*, Witnesses, Sec. 389 as follows:

> "The scope and extent of the examination are a matter for the discretion of the Court. The trial judge in permitting the cross-examination has a heavy responsibility to protect the practice from being abused and a correlative obligation rests on the cross-examiner to display a very high degree of good faith in embarking on such a cross-examination. Such evidence should be admitted cautiously and within a very narrow limit; the cross-examiner may not deliberately inject into the case the issue of previous acts of misconduct without some basis for his questions or unless he intends to call character witnesses in rebuttal to testify with respect to bad reputation as to the traits involved. Questions asked for the mere purpose of casting insinuations should not be permitted."

Likewise upon this issue see 58 *Am. Jur.*, Witnesses, Sec. 659:

> "The extent of cross-examination as to reports of misdeeds of a person inquired of rests in the discretion of the trial court. The reports and rumors respecting the accused inquired of are those circulating among his neighbors and acquaintances. They must relate to the trait of character involved in the commission of the crime charged, and to acts done before its commission, subject to the qualification that the antecedent time must not be too remote. The truth or falsity of the rumors cannot be established, nor may the details of the transactions be elicited."

The responsibility of the trial court to exercise its sound discretion with regard to the cross-examination of charac-

ter witnesses is further reflected in the case of *Michelson* v. *United States,* 335 U.S. 469, where the Court stated at page 480:

> [fol. 165] " . . . Courts of last resort have sought to overcome danger that the true issues will be obscured and confused by investing the trial court with discretion to limit the number of such witnesses and to control cross-examination. Both propriety and abuse of hearsay reputation testimony, on both sides, depend on numerous and subtle considerations difficult to detect or appraise from a cold record, and therefore rarely and only on clear showing of prejudicial abuse of discretion will courts of appeals disturb rulings of trial courts on this subject."

Assignments of Error Based Upon
Denial of Motions to Suppress

The action of the Court in denying the motions of the defendants to suppress the testimony of the witness Partin is complained of in Grounds 41 and 42 of the motions for new trial. It is contended that one of the findings of fact of the Court with respect to the motion to suppress was rendered incorrect by subsequent evidence in the case. It is contended that the telephone transcriptions of the telephone calls between Partin and Hoffa on October 8 and 18, 1962, established that the defendant Hoffa did not invite Partin to Nashville. The telephone transcriptions reflect that the defendant Hoffa agreed to an appointment to see Partin in Nashville. Even if the defendant Hoffa did not initiate the invitation of Partin to come to Nashville, but rather Partin solicited the invitation, this does not in any way alter the Court's finding that the Government did not place or keep Partin with the defendant Hoffa. Neither does it in any way relate to or in any way alter the Court's finding that there was no illegal interference with the right of the defendant Hoffa to representation by counsel. The Government requested of Partin only that he report in-

formation of jury tampering or other illegal activity of [fol. 166] which he became aware. Partin voluntarily furnished such information. He remained in Nashville or returned to Nashville either at the request or with the consent of the defendant Hoffa and not at the instruction of the Government. Finally, the presence of Partin during the course of the Nashville trial and the reporting of information by him does not in any way relate to the rights of the defendants in the preparation and trial of this lawsuit. As a matter of law, the motions to suppress were properly overruled.

Assignments of Error Based Upon Quashing of Subpoena Duces Tecum

Objections are made in Grounds 48(a), 48(b), 53, and 59 with regard to action of the Court with reference to various *subpoenas duces tecum*. Ground 48(a) complains that the Court erred in refusing to require witness Partin to respond to a *subpoena duces tecum*. This alleged error is without basis in the record. No defendant at any time sought to call the witness Partin nor in any manner moved the Court to require the witness Partin to appear with any records. The witness Partin was present in court from time to time to the end of the trial. No issue with regard to any *subpoena duces tecum* was raised until after all of the proof had been completed and both the Government and each defendant had rested. (Tr., Vol. XXX, p. 7974). The only request made of the Court was to require the witness to return the mileage and *per diem* alleged to have been tendered to him (Tr., Vol. XXXI, p. 8222).

Ground 48(b) of the respective motions for new trial complains that the Court erred in refusing to require the witness Daniels to respond to the defendants' *subpoena duces tecum*. This alleged error is without basis in the record.

[fol. 167] Upon a motion to suppress testimony by the witness Partin, the witness Daniels produced a number of tapes, presumably in response to a subpoena. Although

it is not relevant to the issue now before the Court, it is appropriate to point out that these tapes were examined by the Court and found not only to be irrelevant to the motion to suppress, but irrelevant to any issue in the trial, with these tapes being filed as a sealed exhibit. Thereupon, in the midst of the examination of the witness the Court was requested to order the witness to return to Baton Rouge, Louisiana, for the third time and search to determine if there were any other tapes that might in any way relate, not to the issue then on trial, but to the witness Partin generally. The Court declined this unusual request for reasons set forth in the record (Tr., Vol. XXXI, p. 8129). An investigation into local law enforcement activities in Baton Rouge, Louisiana, was wholly outside the issue of suppression of testimony based upon two recorded telephone conversations. No request to enforce a *subpoena duces tecum* with respect to the witness Daniels was ever made of the Court, nor was such subpoena or any refusal to comply with its terms ever called to the attention of the Court.

Ground 53 of the respective motions for a new trial complain that the Court erred in quashing the *subpoena duces tecum* issued upon government representatives with regard to the defendants' motions to suppress recordings of telephone conversations. These were subpoenas issued upon Mr. Neal, Mr. Hooker, Mr. Sheridan, and Mr. Reddy, which, because of their extremely broad scope, considering the issues before the Court, were quashed, the proceeding in this respect being set forth in the record at Vol. XXXI, [fol. 168] pp. 8015-8020. The first paragraph of the subpoena reads as follows:

> "1. All files, reports, memorandum, correspondence and any other documentary matter relating to the instant case or the case of United States of America against James R. Hoffa and Commercial Carriers, Inc."

Eleven other paragraphs in the subpoena made equally broad demands for the production of documents, records, and evidence.

Assignments of Error Based Upon Exclusion of Testimony of Witnesses

Objections are made in Grounds 56, 66, and 90 to the action of the Court in excluding from consideration by the jury the testimony or portions of the testimony of various witnesses and to the action of the Court in permitting an examination of certain witnesses offered for impeachment in the absence of the jury. * * *

* * * * * * *

[fol. 169] Ground 66 contends that the Court was in error in excluding in whole or in part the testimony of various witnesses offered by the defendants, generally for the impeachment of the witness Partin. A reading of the testi-
[fol. 170] mony or offers of proof upon these witnesses will reflect the clear inadmissibility of the testimony excluded.

By the witness Sol Fox, a friend and acquaintance of the defendant Hoffa from Puerto Rico, it was sought to establish that in 1962 the witness had a long distance call to Puerto Rico from an unknown person in Baton Rouge, who said he was Partin, seeking help to locate boats to transport arms to Cuba. The witness stated that he reported this 1962 conversation to the F.B.I. on February 14, 1964, just before coming to Chattanooga to testify (Tr., Vol. XXIV, p. 6050 and 6275-6292).

By the witness Fred Shobe, an ex-convict with a long prison record for multiple felonies, who represented himself as an "agent provocateur" for the Federal Government, and who testified that he came to Nashville from Detroit in *July 1963* to assist the Department of Justice in the case against the defendants, while portions of this witness's testimony was admitted for consideration by the jury (Tr., Vol. XXIV, pp. 6060-6071; Vol. XXVI, pp. 6628-6665), so extreme a range of incompetent testimony was offered that even counsel for some of the defendants disclaimed portions of it and the Court was caused to question the good faith of counsel seeking to place the testimony before

the jury (Tr., Vol. XXIV, pp. 6120-6126). A reading of the testimony of this witness will reflect that the portions of his testimony excluded were clearly incompetent upon any issue in this lawsuit and under any rules of evidence. By way of illustration, it was sought to have this witness testify to an alleged plan mentally conceived by him but otherwise undisclosed and unexecuted to abduct the defendant Parks, threaten his life, then have him rescued by government officers, thereby creating a sense of gratitude [fol. 171] on the part of Parks toward the Government. By way of further illustration, it was sought to have the witness Shobe testify about voodoo and burning candles used to cast spells (Tr., Vol. XXIV, pp. 6077-6078), and about his having testified falsely in Detroit with the knowledge and cooperation of some government official on a wholly unrelated matter at a time before anything was alleged to have occurred with reference to this lawsuit (Tr., Vol. XXIV, p. 6113).

By the witness William Reynolds, a Teamster Union officer from Birmingham, Alabama, testimony seeking to impeach the witness Partin was offered to the effect that the witness Partin had sought to get him to testify falsely against the defendant Hoffa. No foundation for any such alleged conversation was laid in the cross-examination of the witness Partin.

By the witness Rena Mae Booth, an acquaintance of the witness Partin who testified before the jury that Partin's reputation was bad, further testimony was offered to the effect that Partin had once had an affair with a 14 year old girl and other similar acts of misconduct. This latter testimony was excluded by the Court as incompetent (Tr., XXVI, p. 6775 and Exhibit 205).

The witness J. B. Albin, an opponent of Mr. Partin in the local union at Baton Rouge, testified as a character witness against the witness Partin. The Court sustained objections to his testimony, however, as to Partin's alleged contact with individuals in Cuba and other acts of alleged misconduct. (Tr., Vol. XXVI, pp. 6842-6843 and Exhibit 204)

Otis Tynes testified as a character witness against Partin. The Court sustained objections to his testimony, however, [fol. 172] relating to Partin's alleged misconduct with women and whether he was a good family man or not (Tr., XXVI, pp. 6712-6713).

By the witness Ann Smith, who testified that she had worked at Local Union 209 for the witness Partin from 1958 until August 1961, the defense sought to introduce a number of alleged specific acts of misconduct on the part of the witness Partin that occurred prior to August 1961. The Court sustained objections to testimony relating to Partin's having allegedly destroyed union papers, and having allegedly engaged in other improper conduct relating to union disbursements (Tr., Vol. XXVI, pp. 6792-6801). These alleged specific acts of misconduct were clearly incompetent as impeachment testimony with reference to the witness Partin. Otherwise, the issues in a lawsuit could never be tried and lawsuits would degenerate into mere contests to scandalize the personal lives of witnesses.

Likewise, with reference to the witness Prentice H. Moak, the Court excluded specific acts of misconduct alleged to have been committed by the witness Partin, such as that of upon occasion Partin had "double crossed" Moak, that Partin had improperly used union funds, and that he had threatened to engage in fist fights (Tr., Vol. XXVI, 6865).

With reference to the witness Hoyt Tillman, after permitting him to testify as the sixth character witness offered by the defense against Partin, the Court sustained the objections to attempts to have him testify of a conversation at a labor meeting in Dallas when Partin was supposed to have asked him to do something improper with reference to another union member, one Albin (Tr., Vol. XXVI, pp. 6859-6865).

[fol. 173] The witnesss Frank Grimsley, referred to in Ground 66, testified at length before the jury (Tr., Vol. XXV, pp. 6495-6608). No portion of his testimony was excluded other than that the Court made rulings, either sustaining or overruling objections to individual questions.

Likewise with reference to the witness James L. Tassey, the only question to which the Court sustained an objection was a question whether the witness had on occasions asked the defendant King to help people get promotions. Reference to promotions of people in general was irrelevant to any issue in the lawsuit (Tr., Vol. XXV, p. 6451). A question with reference to the witness's conversation with the F.B.I., although at first sustained, was later permitted by the Court, but the defendant did not elect to pursue the matter (Tr., Vol. XXV, p. 6456).

With regard to the matters alleged in Ground 90, the *voir dire* of the defendants' witnesses in the absence of the jury was required by the Court only when necessary to permit the Court to determine the relevancy and admissibility of witnesses' testimony and only after defendants had repeatedly offered wholly irrelevant, incompetent, and improper testimony before the jury, as indicated by the testimony of the witnesses hereinabove referred to. This related principally, if not exclusively, to witnesses offered as impeachment witnesses.

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[fol. 174] Frank W. Wilson, United States District Judge.

[fol. 175]

IN THE UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

Cause No. 15,876

UNITED STATES OF AMERICA, Plaintiff-Appellee,

v.

JAMES R. HOFFA, Defendant-Appellant.

MOTION FOR REMAND TO DISTRICT COURT; OR, IN THE ALTERNATIVE FOR LEAVE TO FILE MOTION FOR A NEW TRIAL IN THE DISTRICT COURT; AND IF SAID MOTION IS FILED FOR STAY OF CONSIDERATION AND DECISION OF THIS APPEAL UNTIL DISPOSITION OF THE MOTION—Filed December 7, 1964

Comes now the defendant-appellant, James R. Hoffa, by his attorneys, and respectfully moves this Court as follows:

1. To remand this cause to the District Court for a hearing on a motion for new trial to be filed by the defendant, or in the alternative,

2. For leave to file a motion for new trial in the District Court, based upon the allegations in the affidavits attached hereto and made a part hereof, and

3. For stay of argument, consideration and decision of this appeal pending certification by the District Court as to whether it will grant or deny the motion for new trial.

As grounds for this motion, it is represented to this Court, as appears from the affidavit of Z. Thomas Osborn, and exhibits attached thereto, the defendant was:

(1) By the acts of the agents of the United States Government denied his right to due process of law guaranteed him by the Fifth Amendment to the Constitution of the United States,

(2) By the intrusion of agents of the Department of Justice into the relationship between the defendant-appellant and his counsel denied his guarantee of the effective assistance of counsel guaranteed him by the Fifth Amendment, and

[fol. 176] (3) By the acts of agents of the Department of Justice denied his protection against unreasonable searches and seizures prohibited by the Fourth Amendment to the United States Constitution, and

(4) By the acts of the same parties denied his right against self-incrimination guaranteed by the Fifth Amendment.

The defendant-appellant, by the actions of a paid informer of the United States Government, acting in concert with officers of the United States District Court and agents of the Federal Bureau of Investigation, and with the knowledge of such officers and agents or at least with their acquiescence, was denied the following rights:

(1) His right to effective compulsory process to subpoena witnesses in his defense as guaranteed to him by the Sixth Amendment, and

(2) That he was denied due process of law guaranteed him by the Fifth Amendment to the United States Constitution, in that

(a) Material witnesses were concealed and placed beyond reach of the Court processes, and that

(b) Evidence, in testimonial form, material to his defense, was suppressed.

All of the foregoing appears more fully in the affidavits of Sidney Simpson, William E. Bufalino, Lester Bloomenstiel and Rena Mae Booth, attached hereto and hereby made a part hereof, and marked Exhibits A, B, C and D.

Counsel represents to this Court that the matters contained herein have been under active investigation since [fol. 177] September, 1964; and are still being investigated, in order to obtain additional corroboration of the facts alleged herein.

Respectfully submitted,

James E. Haggerty, Attorney for Defendant-Appellant, James R. Hoffa.

[File endorsement omitted]

[fol. 178]

ATTACHMENT TO MOTION TO REMAND

IN THE UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

Cause No. 15,876

UNITED STATES OF AMERICA, Plaintiff-Appellee,

v.

JAMES R. HOFFA, Defendant-Appellant.

AFFIDAVIT

City of Washington,
District of Columbia, ss.

Z. T. Osborn, Jr., being first duly sworn, states as follows that, from August 29, 1962 until November 19, 1963, I was the attorney for James R. Hoffa in the cases of *U. S.* v. *Hoffa, et al.*, Criminal No. 13,241, which will hereafter be referred to as the Test Fleet case, and in *U. S.* v. *Hoffa*, Criminal No. 13,383, which will hereafter be re-

ferred to as the Obstruction of Justice case, both in the United States District Court for Middle District of Tennessee.

In connection with my services as an attorney for Mr. Hoffa, I employed one Robert D. Vick as a confidential investigator from the period in October, 1962 until November 8, 1963.

I did not know until May 26, 1964 that Vick, while employed by me for the defendant, was also acting as a spy for, and making reports to, the Department of Justice from February, 1963 until November 8, 1963. Because of my preoccupation with personal problems the significance [fol. 179] of this disclosure to the obstruction of justice case was not immediately apparent to me. Early in November, 1964, I sent a copy of the appendix in my appeal to one of the attorneys for Mr. Hoffa. He immediately called me and I met with him on November 12 and 24, and December 2, 1964.

In performing duties assigned to him from time to time, Vick, from January, 1963, was an irregular but constant visitor to my office at 218 Third Avenue, North, in Nashville, Tennessee. During some periods he would be in the office daily. A week or more might go by before I would see him again. On other occasions he would be in the office two or three times a week.

My office was the clearinghouse for all memoranda, motions, briefs, statements of witnesses, and other written material assembled and being assembled by the Affiant and other attorneys representing co-defendants. Vick had access to this information. He could come and go freely, talking to my secretaries and associates. He had—with others—use of a small office in which memoranda and other papers were kept after copying for use as needed.

Vick was present when other investigators working for me dictated reports to secretaries furnished by Affiant, and had general access to the information developed by the other investigators with respect to various phases of defense planning.

Vick was also present on occasions when I met with the attorneys for the co-defendants for the purpose of planning of legal strategy, listing of witnesses who could be called on the preliminary motions, discussions as to what witnesses would be called, the nature of the testimony of such witnesses, and the allocation of time for argument on various motions.

Both before and after the indictment of Mr. Hoffa on May 9, 1963, I had frequent telephonic communications with him, as well as with the attorneys for his co-defendants in which were discussed confidential matters relating [fol. 180] to his defense; and communications between the attorneys for the other defendants and myself. Vick was never specifically excluded from my office while I was having such communications. I trusted him to keep confidential whatever information he derived from communications he may have overheard or information which was available in Affiant's office; and also to keep confidential the information Affiant gave him as to the reasons for conducting the investigations ordered by me.

During the week before the presentation of pretrial motions before the Honorable Frank Gray, who was presiding in the obstruction of justice case, I met with Jacques M. Schiffer, counsel for Thomas Ewing Parks; Cecil Branstetter, counsel for Larry Campbell; and other attorneys, specifically including Harvey Silets, attorney for Allen Dorfman. Mr. Silets called my attention to the fact that Vick was present at this conference and asked me to identify Vick, which I did. Mr. Silets was not completely satisfied and I, to please Silets, asked Mr. Vick not to sit with the lawyers as they were discussing the case, explaining that although I knew him, the other lawyers were not acquainted with him and that his presence made the other lawyers feel ill at ease. This incident occurred in June, 1963. On no other occasion was he excluded from lawyers' conferences, but I cannot specifically recall his presence at other lawyers' conferences.

Vick commenced work in October, 1962 in connection with a background investigation of the panel which had been summoned for the trial of the Test Fleet case.

Thereafter, in January, 1963, Judge William E. Miller impaneled a grand jury for an investigation of alleged jury fixing in connection with the Test Fleet case. From the *ex parte* disclosures before Judge Miller, it was apparent to me that the inquiry would be directed against Hoffa.

[fol. 181] Vick was employed by me to investigate the grand jury panel for the purpose of ascertaining whether they were qualified grand jurors, whether any of the jurors had any bias against Hoffa, and whether the panel contained a cross-section of the community. He was also asked to conduct or take part in three or four specialized investigations.

Vick continued his work until late in August, 1963, when Vick told me that he was under pressure from Walter Sheridan, an administrative assistant to the United States Attorney General, that he do no further work for me.

However, on October 28, 1963, he came back to me and asked for further work and I gave him work to do in connection with the investigation of the petit jury panel which had been drawn in September, 1963 and which might have tried the obstruction of justice case, although Vick's work was not in connection with jurors probably to be tendered to the defendants.

I was brought to trial on May 25, 1964 on charges based on the testimony given by Vick. I learned for the first time at the conclusion of the direct examination of Vick, when certain statements were made available to me and my attorney under the Jencks Act, that Vick had been reporting to the Federal Bureau of Investigation or Walter Sheridan, or both, as early as February, 1963 regarding my activities on behalf of my client.

The attached documents numbered in the upper right-hand corner (1 through 10) are copies of "cryptic" notes said to have been made at various times by Sheridan of his

interviews with Vick, which were exhibited to me by the government on May 26, 1964. References are to page numbers of the attached exhibits.

Page 1 is headed at the left, "Robt. Vick" and bears the date 8/21/63. At the top of the page and to the right, three names are written, Palmer, Tweel, and Glassman. In August of 1963, the co-defendant Tweel had discussed his case with an attorney named Archibald Palmer, prac- [fol. 182] ticing in New York. Palmer was the attorney who had represented Judith Coplon. He spent a couple of days in my office in Nashville, Tennessee. His appearance in the case was discussed between Mr. Tweel and me. Mr. Tweel decided not to employ him to make an appearance in the case. The name Glassman is meaningless to me. The item numbered 1 on page 1 is self-explanatory; Mr. Sheridan is making a note that Vick has worked for me.

The last name on page 1 is Tippens. Count 2 of the obstruction of justice indictment charged that one Lawrence Medlin, aided and abetted by Mr. Hoffa, had offered juror Tippens $10,000 to vote for Mr. Hoffa's acquittal in the Test Fleet case. The words following Tippens' name may be significant. These words as I read them are: "Approach —to get off jury."

These words capsule the defendant Medlin's theory of defense. I had discussed the Medlin theory of defense with Medlin's attorney, R. B. Parker, Jr. I had actually at the time of Vick's report to Sheridan taken, with Mr. Parker and Mr. Tippens' attorney present, before a court reporter a statement from Tippens which was to be the basis of Medlin's defense. This theory of defense was that Tippens wanted to avoid service on the Test Fleet jury, that he had either misrepresented or being so disposed had misunderstood the conversation had with him by Medlin. Tippens, in Medlin's theory of the case, had reported this conversation as an "approach" to him in order that he might get "off the jury." I knew at the time of this report to Sheridan by Vick, Tippens had wanted very much to be excused from service on the Test Fleet jury. My informa-

tion was that he had called Medlin and asked him how he could go about getting off the jury; and that he had called the Clerk of the Court, Andrew Mizell, and asked Mizell if he could get off the jury and Mizell had told him that he would have to have some reasonable excuse; and that he next called Mizell and told Mizell that he was sick with [fol. 183] a very bad cold and unable to come to court for jury service; and that Mizell told Tippens that he would have to present a doctor's certificate or come down and make his excuse in person, when his name was called for service; and that Tippens then called Medlin and told Medlin that he would have to go ahead and serve on the jury since otherwise the FBI would see him as he went back and forth to work; and that Tippens told Medlin that he wanted desperately to get off the jury and indicated to Medlin that he felt if he did have to serve and ended up voting to acquit Mr. Hoffa, the people of Nashville would run him out of town, whereas if he voted to convict Mr. Hoffa, he might be killed.

Vick could have had access to the theory of this defense from me or others in my office. An incident that happened immediately after the statement was taken from Tippens served to focus the attention of my office on this theory of defense. The incident was an effort by Tippens to make changes in his sworn statement. When the court reporter advised him that his statement had been tape recorded by her on equipment set up in front of him at the time and that he could not change the statement, Tippens then asked her who had the tape recording and she told him that I did. I, therefore, took statements from the court reporter; and I made a statement of Tippens' request to me that his statement be changed. This theory of defense was discussed with Mr. Hoffa and also with other attorneys in the case. These discussions took place, both in my conference room, and telephonically.

Page 2 is dated 8/23/63 and below this bears the notation "R. Vick."

Names of two good friends of mine appear at the top of page 2—John Cooke, Clerk of the Senate, and Buck Loeser, Clerk of the House. Buck Loeser is an attorney and is a brother of J. Carleton Loeser, our Congressman, and whose campaign I had undertaken to manage at the time I accepted employment for the defense of Mr. James [fol. 184] Hoffa. It may be that I had contacted one or both of these friends with respect to some matter in the defense of the Test Fleet case. I do not have any recollection of having called on either of them for any matter in connection with the obstruction of justice case.

The notations thereon seem to be descriptive of the work done by Vick with others on the various investigations conducted by them.

Page 3 deals with my activities on behalf of Mr. Hoffa after the Test Fleet case had been concluded and after the indictment charging violation of Section 1503 had been returned. Leo Goodwin and Hynds (C.H.) whose names appear on page 3 were not employed as investigators until after the Test Fleet case had been completed and until we began work in preparing to defend the obstruction of justice case.

Page 4 is headed, "Vick, 9/5." This first entry on the sheet is C.W.A. on the left and "Doris Brent started—stopped" on the right. The reference to "Doris Brent started—stopped" is to an investigator who worked very briefly with Vick, Tolliver and Ramsey at the commencement of the investigation for the Test Fleet case.

The reference on page 4 to C.W.A., Robert Pedigo, office manager, 1925 K Street, N. W., re Vestal check, relates to work being done for Mr. Hoffa's defense in the obstruction of justice case.

Because of a number of reports respecting activities by Don Vestal, former president of Teamsters Local 327 (re-elected president in January, 1964), I decided that we had better check him out pretty carefully. I had rumors that Mr. Vestal was working for the Steelworkers Union and perhaps also for the Communication Workers of America,

and I asked Vick to make an investigation of Vestal for [fol. 185] me. I suggested that Vestal might show up as a surprise witness and I was interested in any information Vick could obtain about Vestal's present activities. Vick reported on his investigation in due course and gave me the names of certain people located in Washington, D. C. who might be able to give us further information respecting Vestal if there was any way to get the Washington people to cooperate with us.

Vick made his report late in August, 1963 and stated to me that Don Vestal had definitely worked for the Communication Workers of America.

The next three entries on page 4 are the names of three investigators working for me on the obstruction of justice case and not during the Test Fleet case. The names are C. H. Hynds, James Sisco and Leo Goodwin.

The next item on page 4 is "Mizell and Earl Beasly voting records." The notation continues, "Williamson County Election Commission" and concludes "$15 receipt." This is a disclosure by Vick to Sheridan of an investigation I had made in preparation for a challenge to the array of petit jurors in the obstruction of justice case. Mr. Mizell, Clerk of the District Court, was thought to be a Democrat. Mr. Howard Climer of Wilson County, the Jury Commissioner, is also a Democrat. If we could have established that Mizell was in fact a Democrat, we would have been able to show that the jury was improperly drawn and impaneled because of the violation of the Federal statute requiring the clerk and the jury commissioner to be members of opposite political parties. I had Vick and possibly Ramsey go to Williamson County where Mr. Mizell resides and check whether Mizell had voted regularly in the Democratic primaries. I also had them check on Earl Beasly's voting record because Mizell had been reported to me as a member of Earl Beasly's political faction.

[fol. 186] Marion Warren, now deceased, mentioned on page 5, was a lifelong friend of mine, having indeed been a

deputy marshal when I had served as Assistant United States Attorney 20 years before. I had, after the Test Fleet case was completed, and the new investigations commenced, talked to Marion Warren as to whether he might help me break the question of the existence of wiretaps or surveillance. He had talked with some of his friends still working in the United States marshal's office in a fruitless effort to see whether he could get any information for me about this. Vick may have met Warren in my office, heard me talk with him on the phone, or otherwise have picked up Warren's name. It is possible, of course, that Vick himself had gone to Warren in connection with a grand jury panel investigation in which we sought to get information as to the race, religion and employment of prospective grand jurors.

The item on page 5, "Columbia, Fred and Vick" is a report by Vick to Sheridan of an investigation made in connection with the foreman of the grand jury which returned the obstruction of justice indictment for use in pretrial motions respecting misconduct of the prosecution.

The exhibits attached were given under the limitations of the Jencks Act and I have only hearsay information as to other reports made respecting my work as attorney for James R. Hoffa.

I have no knowledge of other information or documents which could possibly have been obtained by Vick from my office and which would not come within the Jencks Act requirements.

Z. T. Osborn, Jr.

[fol. 187]

EXHIBIT A TO MOTION FOR REMAND

IN THE UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

Cause No. 15,876

UNITED STATES OF AMERICA, Plaintiff-Appellee,

v.

JAMES R. HOFFA, Defendant-Appellant.

AFFIDAVIT

I, WILLIAM E. BUFALINO, being first duly sworn on oath, state as follows:

That I am an attorney, a member of the bar of the Supreme Court of the Commonwealth of Pennsylvania and a member of the bar of the United States Supreme Court. I was assisting counsel for the defendant in the trial of this cause.

That at the outset of the government's case, defense counsel requested the court to require the government to disclose the names of the government witnesses. This was denied by the court.

That after about two weeks of trial, the government unveiled a surprise witness, Edward G. Partin. This witness had infiltrated the conferences between the defendant Hoffa and his attorneys in the trial of what is known as the Test Fleet case in Nashville, Tennessee in 1962. He had full access to all activities of defense counsel, including the intervening of witnesses, the preparation of various motions, and the general trial strategy of the defendant's attorneys.

That defense counsel were immediately confronted with the necessity of instantaneously doing an investigation

of Partin's background and activities, as well as his whereabouts during the period, to wit, the early part of October, 1962, to the 23rd of December, 1962. Being placed in charge of the effort to get this background information, I endeavored to have interviewed various associates of Partin in Louisiana, including one Mildred Kelly, who is referred [fol. 188] to in the affidavit of Sidney Simpson, attached hereto and marked Exhibit B; also Earl Jones and Donice Bennett, the latter being custodian of the records of Teamsters Local 5, of which Partin was an officer.

That I had information that the records of Teamsters Local 5, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, of which Partin and Donice Bennett were officers, would disclose and demonstrate that Partin was traveling through areas not connected with his business; and that it was in connection with his work as an informer for Walter Sheridan, administrative assistant to the Attorney General, and other government agents.

That after attempts to communicate directly and telephonically with the above-named persons in Louisiana, I was met with complete frustration. They were either unavailable or would not talk to persons whom I sent to interview them.

That because of my inability to locate the witnesses through ordinary channels and because of their refusal to talk with me, in order to adequately cross-examine Partin, I caused subpoenaes to be issued for Mildred Kelly; Sidney Simpson; Donice Bennett, custodian of records of Teamsters Local 5, Baton Rouge, Louisiana.

That I had further information that in the period of approximately three years prior to the trial of the obstruction of justice case and particularly in October, November, December, 1962, during which time the events occurred which were the subject of the indictment of the obstruction of justice case, Partin was a user of narcotics.

That the reason I wanted to interview these witnesses was because I had reliable information that his narcotics habit

had impaired his mental faculties; and that if we could establish this, we could then show that his addiction had:

[fol. 189] a. Impaired his capacity to observe;

b. Impaired his ability to receive accurate impressions;

c. Impaired his ability to retain accurate impressions in his memory;

d. Impaired his ability to recollect and relate those impressions;

e. Impaired his mental power and inclination to be truthful;

f. Impaired his mental power to discern whether his statements were real or fanciful;

g. Impaired his mental ability to distinguish between truth and delusions; and

h. Caused him to have delusions.

That with particular reference to the witness, Mildred Kelly, who is referred to in the Simpson affidavit attached hereto on page 9, I caused the issuance of a subpoena for her on the 12th day of February, 1964, and delivered the same to the U. S. marshal in Chattanooga, Tennessee for service upon her. This was returned, not to be found. I also caused a subpoena to be issued for Simpson, upon which service was obtained.

That Simpson appeared in the Clerk's office in the U. S. District Court accompanied by one Emmett Tucker. I attempted to interview him with respect to the matters set forth above and he refused to talk to me or to make any disclosure to me.

That with respect to the records of Local 5, as appears from the affidavit of Simpson some of these records were placed beyond the processes of the court by removal and concealment of the records so that they would not be available for subpoena.

That I was first able to obtain information from Simpson on or about September 2, 1964, at which time I had a pre-

liminary interview with him. On or about September 20, 1964, together with another attorney, I interviewed Simpson. Subsequent interviews were made as late as December 1, 1964, as appears from the attached affidavit.

That because of Simpson's background, I desired to have as much corroboration of his statements as possible, apart from such corroboration as appeared in the transcript of [fol. 190] the trial. Accordingly, Mrs. Rena Mae Booth drew and executed the attached affidavit on the 2nd day of December, 1964 and Mr. Lester Bloomenstiel executed his attached affidavit on the 26th day of October, 1964. Additional corroboration of Simpson's statement is still being sought.

Further, affiant sayeth not.

/s/ William E. Bufalino
William E. Bufalino

County of Wayne)
) ss.:
State of Michigan)

Before me, a Notary Public in and for the County of Wayne, State of Michigan, appeared the foregoing Affiant, William E. Bufalino, and subscribed and swore to the foregoing Affidavit, which was signed in my presence, this 4th day of December, 1964.

/s/ Eleanor E. Petz
Notary Public

My commission expires:

Eleanor E. Petz
Notary Public Wayne County, Mich.
My Commission Expires April 8, 1968

[fol. 191]

EXHIBIT B TO MOTION FOR REMAND

AFFIDAVIT

CITY OF WASHINGTON)
) ss.:
DISTRICT OF COLUMBIA)

Sidney Simpson, upon oath, deposes and says as follows:

That I am 23 years old and reside at 2332 Choctaw Avenue, Baton Rouge, Louisiana.

I have been acquainted with Edward Grady Partin for the past seven years. During the course of the trial of James R. Hoffa in Chattanooga, Tennessee, during the early part of 1964, Partin told me that I was going to be subpoenaed as a witness and to stay hidden. Partin told me this either before the trial started or after the trial had started and while Partin was on a visit to Baton Rouge. After Partin testified in the trial, I was served with a subpoena. I told Donice Bennett that I had been subpoenaed. Donice Bennett is an official of Local 5 of the Teamsters. After I had told Bennett of the subpoena, I received a telephone call from Partin at the Local 5 union hall. Partin said to me, "I told you to stay hidden and you wouldn't have been subpoenaed." Partin gave me the name of an attorney to get in touch with when I got to Chattanooga. He also gave me the telephone number of the attorney. I do not recall the name of the attorney.

I flew to Chattanooga and called the attorney from the airport. The attorney told me to go to the Drake Motel. When I went to the Drake Motel, I went to Partin's room. In the room at the time were Partin and two men who were either FBI men or Federal marshals. Partin introduced the men to me as Federal marshals. Also present were Emmett Tucker and Bobby Gurney, who are known to me as friends of Partin. Later a third person came into the room who was identified to me as a marshal and told Partin that Earl Jones and John Burch were going to be sub-

poenaed. Partin said, "I'll fix that." Partin got on the phone immediately and called Local 5 in Baton Rouge. He told whoever he talked to tell Jones and Burch to get hid, that they were going to get subpoenaed. The marshals were present when he made the call.

[fol. 192] On the morning after I arrived in Chattanooga, I was in Partin's room in the Drake Motel. Present were Emmett Tucker, Partin and two deputy marshals. Partin instructed me to talk to no one. He also instructed Tucker not to permit me to talk to anyone. Tucker and I went to the Clerk's office and told a woman in the office that I was there in response to a subpoena. She went and got a man who I now know to be William Bufalino. Bufalino approached me and attempted to ask me some questions and Tucker then said, "All you have to do is tell them you are here with reference to the subpoena." Bufalino asked Tucker if he was my attorney and Tucker said, "No, I'm a friend of his." Bufalino said, "I thought you were his lawyer." Bufalino asked me to sit down and wait until he talked to the other lawyers so that he could see when I would be needed. I did not hear from Bufalino after that.

I know that Partin had been addicted to narcotics from sometime around 1960 until the latter part of 1963. Although I have known Partin since 1957, I became more intimate with him around 1959. We would go on trips together, to Florida, Texas, Alabama, New Orleans, and other places. Sometime around 1959, Partin became friendly with my aunt, Mildred Kelly, who then lived in Baton Rouge. My intimate relationship with Partin continued from 1959 through the Chattanooga trial in 1964. Sometime in 1959 I noticed that Partin had started to take pills which were called "bennies." These "bennies" seemed to pick Partin up and he would go three or four days without sleep. Partin would take two or three of these at a time. Partin continued to use these "bennies" all during the period that I was acquainted with him.

Sometime in 1960, my aunt, Mildred Kelly, told me that Partin was using dope. I had no actual knowledge of

Partin's use of dope until 1961. All during the period that I knew him, I noticed that Partin seemed fresh all the time, that he didn't seem to need sleep, that he could go for days without sleep, and that he ate very little at times.

[fol. 193] In 1961, Partin shot himself in an apartment on Nickerson Drive in Baton Rouge, Louisiana. Partin called me and asked me to come over to his apartment. I went over and tried to get Partin to go to a hospital, but he wouldn't go. Finally, I took Partin to the Baton Rouge General Hospital. As I approached the hospital, Partin jumped out of the car and ran from me. I couldn't find him. I called Ossie Brown, a lawyer, and told him that Ed was shot and that he had run away from me at the hospital and I didn't know where he was.

In the meantime, I learned that my brother, Jackie, had gone to Partin's apartment. After Partin left my automobile at the hospital, Partin went back to his apartment and got into a car with my brother, Jackie. Partin later told me that he had gone to the apartment to get the dope out of the apartment; but the city police were there and he had gotten into the car with my brother, Jackie.

Jackie Simpson then took Partin to the home of Mrs. Crabtree, who was then living on Cyrus Street in Baton Rouge.

I then went to Mrs. Crabtree's house. Ossie Brown, a lawyer, was there. Partin said he would not go to a doctor. I left to get Partin's brother, Doug Partin. ~~Then I left~~. Later I learned that Partin had been taken to Our Lady of the Lake Hospital in Baton Rouge. The next morning I went to the hospital. My wife was in the same hospital at the time. I stopped by Partin's room. Partin asked me to go to his apartment and get the dope out of the apartment. It was strapped under a table. There were two needles and two bottles. One of the bottles was half full of liquid. I threw the bottles in the lake at Our Lady of the Lake Hospital. I put the needles under the back seat of my mother-in-law's car, Mrs. Rena Mae Booth. I went back to the hospital the same day and told Partin

what I had done with the needles and Partin told me to get rid of the needles and I called my mother-in-law, Mrs. Booth, and told her to get rid of them.

Partin stayed in the hospital only a day or two. After he left the hospital, he rented a motel room and asked me to stay with him, and to help him in getting up and getting [fol. 194] around. I believe that the name of the motel was the Oak Manor Motel on Airline Highway in Baton Rouge. I stayed with him two or three days. While I was in the motel room with him, I asked Partin why he was taking the dope; whether it had been given to him by a doctor; and what the reason was for his taking the dope. Partin would not tell me. I asked Partin what kind of dope it was he was using and Partin said it was heroin. I did not see him take any dope while I was in the motel room.

When we were getting ready to leave the room, there was some soiled clothes in the closet. I was packing Partin's clothes and I saw a bottle and a hypodermic needle under the soiled clothes. The bottle was about two and a half inches tall and a little better than half gone. During the time we were in the hotel room, Partin had several visitors, including Doug Partin, his brother, and Johnny Burch. While at the motel, I had to leave the room on numerous occasions because my wife was still in the hospital.

From 1958 to 1961, I had noticed small purplish marks on both of Partin's arms running from the middle forearm up past the elbow. They were mostly on the inside of the arm in the area of the elbow joint. I never asked him about these marks until he was in the motel room in 1961, after he had come out of the hospital. I asked him about the puncture marks on his arms. Partin said the marks were from the hypodermic needle. During this period, Partin would also break out periodically with something that looked to me like a rash over his arms and chest. I noticed this while we were in the motel room and asked Partin what it was. Partin replied that it was the dope coming out of him. Partin always wore long-sleeved shirts even

in the summertime and the marks were not seen unless he took his shirt off.

Sometime in 1962, Partin told me that he had undergone *an* operation. He told me on one occasion that he had come to Washington and had an operation. After this time, Partin had a scar which went all the way across his stomach from side to side, and also had a scar running from his [fol. 195] chest to the lower part of his stomach. After this operation, Partin began taking his dope directly into the scars on his stomach and stopped taking it in his arms. His arms cleared up and on occasion thereafter Partin would wear short-sleeved shirts.

After the operation I went to see Partin who was in a motel in Sylacauga, Alabama. I was in the bathroom of the room and I heard Partin groaning. I came out of the bathroom and saw Partin lying on the bed, his eyes open but rolled back in his head. His face and whole body were full of perspiration. On his stomach was a hypodermic needle with the needle still sticking in the flesh and the chamber of the needle laying on his stomach. I shoved the plunger all the way down, injecting all the fluid into a scar on Partin's stomach. In a few minutes, he came to. I asked Partin what had caused him to pass out, but I do not remember what explanation he gave.

From 1961 to the latter part of 1963, I frequently went away on trips with Partin. These occurred two or three times a month. Sometimes we would stay in the same motel room, and sometimes we would not. During all this period, I saw puncture marks on Partin's stomach. They seemed to be needle marks. They were of different colors. Some would be pinkish, some would be purplish, some would be swollen, and some would hardly show enough to be seen.

Every place we went during this period, Partin always carried with him a leather case about the size of a briefcase. In it, he always carried two needles and sometimes one bottle about two and a half inches high and sometimes two bottles of the same size containing fluid. One of the needles had a plunger and chamber on it about five or six

inches long and the other had a plunger about two or two and a half inches long. I never actually saw him take dope after the occasions in Sylacauga. I continued to take these trips with Partin until after the Chattanooga trial and until three or four months ago. Partin always carried a briefcase with him as late as three or four months ago, but I did not actually see the needles or the bottles in the briefcase after late 1962 and I cannot say whether there were needles and bottles in it after that date.

[fol. 196] After the Chattanooga trial, I was at the union hall and I asked Partin whether he was still on the dope. Partin told me that the FBI had helped him get off the dope that he was on.

During the period from about March until September, 1962, I was in various jails in Louisiana for a period of six months on a kidnapping charge arising out of domestic difficulties that I had with my wife.

Sometime in September, 1962, I was transferred from the Donaldsonville Parish Jail to the Baton Rouge Parish Jail. I was placed in a cell with Partin. For the first few days, Partin acted sort of brave. Then when it was clear that he was not going to get out in a hurry, he became more excited and nervous. After I had been in the same cell with Partin for about three days, Partin said, "I know a way to get out of here. They want Hoffa more than they want me." Partin told me that he was going to get one of the deputies to get Bill Daniels. Bill Daniels is an officer in the State of Louisiana. Partin said he wanted to talk to Daniels about Hoffa. Partin said that he was going to talk to Captain Edwards and ask him to get Daniels. A deputy, whose name is not known to me, came and took Partin from the cell. Partin remained away for several hours.

A few days later Partin was released from the jail. From the day when I first saw the deputy, until the date when Partin was released, Partin was out of the cell most of the day and sometimes part of the night. On one occasion Partin returned to the cell and said, "It will take a few

more days and we will have things straightened out, but don't worry." Partin was taken in and out of the cell frequently each day. Partin told me during this time that he was working with Daniels and the FBI to frame Hoffa. On one occasion I asked Partin if he knew enough about Hoffa to be of any help to Daniels and the FBI, and Partin said, "It doesn't make any difference. If I don' know it, I can fix it up."

[fol. 197] While we were in the cell, I asked Partin why he was doing this to Hoffa. Partin replied: "What difference does it make? I'm thinking about myself. Aren't you thinking about yourself? I don't give a damn about Hoffa." Partin told me that the FBI and Daniels were going to get the Federal kidnapping charge against him changed to a state charge and it would be dismissed later on, and that the 26 Federal charges against Partin were going to be dropped, if he would tell the story that the FBI and Daniels told him to tell. Partin did not tell me what kind of story the FBI and Daniels wanted him to tell. Partin also told me that the FBI would help him on his charge in Alabama about killing the boy.

Partin was being held on $50,000 bond in Louisiana. Partin told me that the bond was being dropped from $50,000 to $5,000, and the bond was dropped and Partin was released. I was being held under $34,000 bond on the Federal charge of kidnapping and when Partin was released on $5,000 bond, I asked him how come mine was not reduced. Partin told me some reason but I don't remember why it was. The kidnapping charge against Partin and me was dismissed.

A week after Partin was released, I was released on bond. After I was released, I had a conversation with Partin and Partin told me that the FBI wanted Hoffa more than they wanted him and that was how he had gotten out of jail. This conversation occurred at the union hall. In this same conversation, Partin said that the FBI had told him to turn over the Simpson children to my wife, and that is how they got me out of jail on bond, and that later the charges would

be dropped. While I was in jail, I sent a note to Ossie Brown. This was given to Partin by me.

Partin delivered the note to Ossie Brown. This note directed Kenneth Sculley, who was a lawyer, to pick up the children and deliver them to one of the deputies.

[fol. 198] Sometime around in March, 1962, when I was in the Donaldsonville Parish Jail, William Hawk Daniels, an investigator, came to me and wanted me to tell all I knew about Hoffa and Partin, stating that there was a $25,000 reward and a $50,000 reward that would be paid. I told him that I didn't know anything about Hoffa. I also told him that I wouldn't tell him anything about either Hoffa or Partin.

From the time that I was released from jail in September, 1962 and through December, 1962, which was the period of the Nashville trial, I had several conversations with Partin. I don't recall the exact times of the conversations or the exact words, but during both the Nashville and Chattanooga trials, Partin bragged to me that he was working with the Government to frame Hoffa.

After the trial in Chattanooga, Partin told me that the FBI had written down what they wanted him to say in the Chattanooga trial and went over it with Partin several times so that he could remember the exact words. I don't recall the exact place of the conversation. No one else was present at the time. Partin also told me that the FBI had helped him get off the charges in Baton Rouge.

During the Chattanooga trial, Bennett and Partin's brother, Doug Partin, told me that Partin had called and ordered us to get rid of the records of Local 5 because a subpoena had been issued for them. I, Doug Partin, Bennett, Buzzy Jones and Roger Bargeron put the records into two cars, one was Buzzy Jones' 1962 red Ford Galaxie and one was Bargeron's 1962 Chevrolet Impala. Donice Bennett was there at all times and helped bring the records out of the local. We put them in the cars. The records filled up the trunk of Buzzy Jones' car and the rest was [fol. 199] put in Roger Bargeron's car. The records were

kept hidden in the two cars for several days and then they were brought back again to the local.

During the time that I was at the Drake Motel in Chattanooga, Partin told me that Mildred Kelly, my aunt, was being hidden out in a room in a motel and that the marshals knew where she was and the marshals on one occasion took Partin to visit Mildred Kelly at the motel. Later, Mildred Kelly, my aunt, told me that Partin and marshals had kept her hidden all during the trial at a motel. She also told me that Partin had told her that she was going to be subpoenaed and that that was the reason she was being hidden by Partin and the marshals.

During the Chattanooga trial, I was in the U.S. Court House in an office on the same floor as the courtroom. Present were Partin, Bobby Gurney and several U. S. marshals or the FBI men. Partin told Gurney in the presence of all of us to tear off Frank Fitzsimmons' head. One of the marshals told him not to do it, saying that they "would like to kill the son of a bitch ourselves, but it would only help Hoffa."

During the Chattanooga trial, I was in the office on the third floor of the U. S. Court House where the FBI men and marshals were. Present were Partin, his brother, Doug, Partin, and three or four FBI men or marshals. Partin told his brother, Doug, to go out in the hall and tell Lester Blumenstiel, who was waiting to testify for the defense, "to remember the pinball deal and that he had better not testify." This conversation occurred within the hearing of the FBI men or marshals and they did nothing to prevent Doug Partin from leaving the room. Doug Partin then left the room.

/s/ Bill Sidney Simpson

[fol. 200]

City of Washington)
) ss
District of Columbia)

I, Sidney Simpson, have read the foregoing affidavit by me subscribed, and those matters I state of my personal

knowledge I know to be true, and those stated on information and belief, I believe to be true.

/s/ Bill Sidney Simpson

Subscribed and sworn to before me this 1st day of December, 1964.

/s/ Viola Lyons
Notary Public, D. C.

My Commission Expires Nov. 30, 1966

[fol. 201]

Exhibit C to Motion for Remand

State of Louisiana
Parish of Orleans

Before me, the undersigned attorney, a Notary Public in and for the parish of Orleans, state of Louisiana, personally came and appeared

Lester Bloomenstiel
21280 Perkins Road
Baton Rouge, Louisiana

who after first being duly sworn, did depose and say as follows:

On February 21, 1964, while in Chattanooga as a witness in the Hoffa trial, I was approached by Douglas Partin in the men's room and was told by Douglas Partin that his brother Ed said for me to take the Fifth Amendment. I told Douglas that I hadn't come to Chattanooga to hurt Ed personally, but had no reason to take the Fifth Amendment and flatly refused to do so.

Later I was called to testify. On my way to the courtroom, Douglas Partin came up to me and said that his brother said for me to take the Fifth Amendment or remember what would happen to the pin ball machines in Baton Rouge. I did not answer him, and walked right

into the courtroom and testified. That was the extent of both encounters with Douglas Partin.

The above affidavit is true and correct in every respect.

/s/ Lester Bloomenstiel
Lester Bloomenstiel

Sworn to and Subscribed Before
Me, Notary Public, This
26th Day of October 1964.

/s/ Ralph N. Jackson
Ralph N. Jackson
Notary Public, Parish of Orleans, State of La.
My Commission is issued for life.

[fol. 202]

Exhibit D to Motion for Remand

November 30,

Affidavit of Rena Mae Booth

My name is Rena Mae Booth. I recide at 301 Hargett St. Clute Texas. I had known E. G. Partin about one year when in the winter of 1961 there was a shooting incident in which E. G. Partin was shot.

He was taken to our Lady Of The Lake Hospital. My daughter was in the same Hospital. I visited my daughter. Sidney Simpson also was visiting my daughter. After we left the Hospital Sidney told me to look under the seat and get those Hypo Syringes and throw them away. I ask him at the time if this was all that he got and he said no, that he had thrown the dope in the Mississippi river. I took the syringes, they were metaltype hypo syringes, and I took them into the house, gave them to my mother and she threw them in the garbage.

I have read this statement comprised of one page this November 30, and I here by these presents swear that each and every fact set forth is true and correct.

/s/ RENA MAE BOOTH
Rena Mae Booth

BEFORE ME, a Notary public in and for Brazoria County Texas, appeared RENA MAE BOOTH, who stated to me that she has read the above and foregoing three pages, and the facts contained therein are true and correct, and that she does upon her oath sign the same, acknowledging the correctness thereof.

SWORN TO AND SUBSCRIBED BEFORE ME, on this the 2nd day of December, A. D. 1964.

R. C. THOMAS
Notary Public in and for Brazoria County Texas

[fol. 203]

IN THE UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

No. 15,876

[Title omitted]

ORDER—Filed December 9, 1964

Before WEICK, Chief Judge, MILLER and CECIL, Circuit Judges.

The motion of Appellant, James R. Hoffa, to remand this cause to the District Court for a hearing on the motion for a new trial to be filed by said Appellant, is denied.

The alternative motion for leave to file a motion for a new trial in the District Court, is hereby denied for lack of jurisdiction.

The motion for a new trial should be addressed to the District Court and not to this Court. Rule 33 Federal Rules of Criminal Procedure; *United States* v. *West,* 170 F. Supp. 200 (D.C. N.D.O. 1959), *Aff'd* 274 F.2d 885 (C.A. 6, 1960), and cases therein cited.

The motion for stay of oral argument, consideration and decision of this appeal pending certification by the District Court as to whether it will grant or deny the motion for a new trial, is hereby denied.

Entered by order of the Court.

CARL W. REUSS
Clerk

[File endorsement omitted]

[fol. 204]

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
No. 15,876

UNITED STATES OF AMERICA, Plaintiff-Appellee,

v.

JAMES R. HOFFA, Defendant-Appellant,

No. 15,877

UNITED STATES OF AMERICA, Plaintiff-Appellee,

v.

THOMAS EWING PARKS, Defendant-Appellant.

[File endorsement omitted]

No. 15,878

UNITED STATES OF AMERICA, Plaintiff-Appellee,

v.

LARRY CAMPBELL, Defendant-Appellant.

No. 15,879

UNITED STATES OF AMERICA, Plaintiff-Appellee,

v.

EWING KING, Defendant-Appellant.

OPINION—Decided July 29, 1965

Before WEICK, Chief Judge, MILLER and CECIL, Circuit Judges.

[fol. 205] WEICK, Chief Judge. Appellants were found guilty by a jury in the District Court on charges of wilfully endeavoring to influence, intimidate and impede petit jurors in the discharge of their duties, in violation of 18 U.S.C. § 1503.[1] The petit jurors had been summoned for

[1] Hoffa was convicted on Counts III and V of a five count indictment; Parks and Campbell were convicted on Count III; and King was convicted on Count V. Hoffa's motion for judgment of acquittal on Count II was granted; Hoffa and co-defendants, Dorfman and Tweel, were acquitted on Count IV.

Count I, which charged a conspiracy against Hoffa alone, was severed before trial. The Court had transferred the case for trial to Chattanooga in the Eastern Division. Defendant, Lawrence Medlin, who was indicted on Count II with Hoffa, obtained a writ of mandamus from this Court ordering the retransfer of his case to Nashville. This had the effect of granting him a separate trial.

jury service in the trial of *United States of America* v. *James R. Hoffa and Commercial Carriers, Inc.* (Criminal Case No. 13,241) in the United States District Court for the Middle District of Tennessee, Nashville Division. The latter case has been referred to as the Test-Fleet case, and involved a two count information charging violation of the Taft-Hartley Act (29 U.S.C. § 186). It was tried before District Judge William E. Miller of Nashville.

The unlawful endeavors which the Government's evidence tended to prove consisted of contacts through intermediaries with acquaintances, friends or relatives of two of the petit jurors and one venireman in an effort to influence their votes by bribery. Venireman James C. Tippens reported to the trial judge on the second day of the trial that his neighbor, Lawrence Medlin, had offered him $10,000. in $100. bills to influence his vote. Judge Miller excused Tippens from the jury.

The Government's evidence tended to prove that endeavors were made to bribe the son of juror Gratin Fields for the purpose of influencing his father; that contact was made with the juror's daughter for the same purpose; that contacts were made with Tennessee State Patrolman James Paschal, husband of juror, Mrs. James Paschal; that promises were made to Patrolman Paschal to obtain a [fol. 206] promotion for him if he would influence his wife's vote as a juror. When these efforts were reported to District Judge Miller he excused jurors Fields and Paschal and filled their places with alternate jurors.

The trial of the Test-Fleet case lasted for about two months. It resulted in a "hung jury." Judge Miller then ordered that a grand jury be convened to investigate the attempts to influence the petit jurors, which resulted in the five count indictment in the present case. After entering

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Hoffa was sentenced to a term of four years' imprisonment and to pay a fine of $5,000, on each count, the sentences to run consecutively. Parks, Campbell and King were sentenced to three years' imprisonment.

the order, Judge Miller recused himself from further consideration of the case. District Judge Frank Gray, Jr., of Nashville, heard a number of preliminary matters, after which he recused himself and the case was assigned for trial to District Judge Frank Wilson. Judge Wilson transferred the case for trial from Nashville to Chattanooga. It lasted six and one-half weeks.

The record and exhibits in this case are voluminous.

Almost every question which the ingenuity of counsel could think of, was raised in the trial court.

In this Court Appellants have presented sixteen questions, subdivided into thirty-six parts. Counsel for both parties were granted leave to file briefs much longer than authorized by our rules. Each side was allowed two hours for oral arguments.

Was the Grand Jury Improperly and Illegally Impaneled?

A motion to dismiss the indictment was filed by Appellant Hoffa and later joined in by the other Appellants in the District Court, in which it was claimed that the grand jury did not represent a fair cross-section of the community; that the Jury Commissioner and the Clerk had delegated to other persons their duty to select the names for the jury box; and that the names in the jury box from which the grand jury was selected had been suggested substantially by United States officials, United States Postmasters, state officials, bankers and employers, resulting in a substantial discrimination against the defendants. Certain exhibits were attached to the motion, purporting to show the names, addresses and description of the economic and sociological values and attitudes of the suggesters.

[fol. 207] On the day set for the hearing, Hoffa filed an *Offer of Proof* stating, among other things, that officers and officials of federally supervised banks and Postmasters serving the Middle District of Tennessee are, as a class, biased and prejudiced against Negroes, Jews, Catholics

and manual or blue collar workers, and would not knowingly submit their names for jury service; that bankers, as a class, are also biased and prejudiced against persons not prompt in the payment of their bills, against persons taking any active part in the political or civic life of their communities, and against persons having reputations as liberals or progressives.

Neither the motion nor the offer of proof were verified. Neither stated in what manner nor by what means these charges would be proved.

Affidavits were filed by the Clerk of the District Court and the Jury Commissioner. It appeared therefrom that the "Suggester System," also referred to as "Key Men System," was used to procure names for the grand jury. The Clerk sent a letter[2] to various persons residing in the

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[2] "United States District Court
Office of the Clerk
Middle District of Tennessee
Nashville 3

"We plan to draw a jury in the near future and would appreciate it if you would send us the names of some persons in your community who are qualified for federal jury service.

For your guidance and information we quote the pertinent provisions of the statute defining 'Qualifications of Federal jurors.'

'Any citizen of the United States who has attained the age of twenty-one years and who has resided for a period of one year within the judicial district, is competent to serve as a grand or petit juror unless—

(1) He has been convicted in a State or Federal court of record of a crime punishable by imprisonment for more than one year and his civil rights have not been restored by pardon or amnesty.

(2) He is unable to read, write, speak, and understand the English language.

(3) He is incapable, by reason of mental or physical infirmities to render efficient jury service.'

What we ask from you is a list of persons for this important public service which will be a fair cross-section of the entire population of your community, representing both men and women of all races in all walks of life and having a variety of backgrounds,

[fol. 208] counties composing the Middle District of Tennessee. The Clerk's affidavit stated how the suggesters were chosen.[3]

The Jury Commissioner's affidavit stated that he had written for names of qualified jurors to the Jury Commissioners for the Columbia and Cookeville Divisions of the Middle District of Tennessee. In addition he wrote a letter, identical in form to the letters sent by the Clerk, to

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occupations, callings, economic classifications, religious and political affiliations, and other recognized groupings or classifications.

For your convenience, we are enclosing a blank form on which you may list the names, together with a self-addressed franked envelope.

We would appreciate it if you would send us your list of names as soon as possible.

Very truly yours,

Andrew H. Mizell,

Clerk"

[3] Affidavit of Andrew H. Mizell:

"• • •

"The suggesters are chosen because they are the persons who would be most widely acquainted with persons of every background and more likely to return a fair cross-section of their communities. Thus, while bankers and postmasters are used considerably, it is because they are the very people most likely to know persons with varied backgrounds and thus most likely to return a fair cross-section of their particular community.

"Among the persons I selected as suggesters for the Grand Jury in question, were Negroes as well as White, females as well as male, and working people as well as businessmen and bankers. I have reviewed the list of suggesters submitted by defendants and agree that this list includes the suggesters actually returning names to me. The list does not include a number of other suggesters to whom I wrote, however, because these suggesters returned no names.

"When these suggesters returned names of qualified persons, I went over the list and prepared the names for insertion in the jury box. I did not personally check the qualifications of every person whose name was submitted, for it has been my experience that the suggesters I and Mr. Climer pick do return only the names of qualified persons and can be relied upon to do so. Thus I have observed the empaneling and swearing of many grand and petit juries se-

a citizen residing in each of the twelve counties of the [fol. 209] Nashville Division, excluding Wilson and Davidson Counties, requesting the names of persons from all walks of life, to serve as jurors. Males and females were included in the list. Many of the suggesters were known to him personally, and many others were known to him by reputation. Upon receiving the lists he reviewed them and compiled the list of names to be placed in the jury box. He added fifteen or twenty names of persons residing in Wilson County, who he knew were qualified. He met with the Clerk. Each alternated in placing one name at a time in the jury box until there were four hundred names in the box. They drew one hundred names from the box, from which they selected twenty-three persons, who made up the grand jury.

Prior to the hearing District Judge Frank Gray, Jr. entered an order establishing the sequence of issues to be heard on the motion:

> "1. Whether a suggester system for the selection of prospective grand jurors is invalid, *per se,* so as to invalidate actions of a grand jury so selected.
>
> "2. Whether a sufficient showing has been made to authorize an inquiry whether the manner in which the suggester system was used in selecting the present grand jury was such as to invalidate the indictment.

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lected in this District in this manner and have noted that practically every name drawn from the box has been that of a qualified person.

"In addition to the names I secured from suggesters, I selected, on my own without advice from any judge or other Government official, 15 to 20 names of persons I know to be qualified.

"When I had secured sufficient names, Mr. Climer and I met, emptied the jury box, and, in the presence of witnesses, each put in 200 names, alternating in putting in one name at the time. Immediately thereafter, we drew 100 names from the box and these persons became the panel from which were selected the 23 persons who made up the instant Grand Jury.

"I made no effort to exclude any group from the jury box. On the contrary, my every effort throughout was to secure a fair cross-section of the community—the Middle District of Tennessee.

ANDREW H. MIZELL"

"3. Whether the court failed to take proper precautions against seating grand jurors who may have been influenced by publicity, and, if so, whether the indictment is thereby invalidated.

"4. Whether a sufficient showing has been made to authorize an inquiry as to whether the grand jury was biased and prejudiced by publicity."

The defense subpoenaed the Clerk, the Jury Commissioner and seventy-seven of the ninety-two suggesters listed in their exhibit. At the hearing the Court heard oral arguments from counsel for each defendant and for the Government. The Court called attention to his previous order and sought time after time to elicit from defense counsel proffers of proof as to the names of witnesses and [fol. 210] what their testimony would be in support of the charges contained in the motion. In this effort the Court was unsuccessful. The most that could be secured was the statement of counsel that the proof would come from the testimony of the Clerk, the Jury Commissioner, and the seventy-seven suggesters. Defense counsel had talked to only one suggester at that time. The Court would not permit their interrogation because the defense had not established the necessary foundation therefor.[4]

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[4] In a memorandum opinion denying the motion to dismiss the indictment, the Court said:

"In the face of the specific *caveat* in the court's order of July 18, 1963, defense counsel sought at the very outset of the hearing to begin calling witnesses without offering any argument in support of their right to do so. Furthermore, the first witness offered was the court clerk, one of the persons the defendants were accusing at least of abuse of discretion and at most of malfeasance in office. Upon the court's inquiry, defense counsel disclosed the proposal to prove their entire case out of the mouths of the clerk, the jury commissioner, and seventy-seven of the ninety-two suggesters listed in the exhibit to their motion. No other witness was then or thereafter offered; no other proof was offered by affidavit or otherwise. On the naked, unsworn and tardy assertions by counsel of the improbable proposition that all these people could be relied upon to

The Court did permit proof to be offered on the charge that the Clerk had placed in the jury box the name of a man of Jewish faith, knowing that he was represented by defense counsel Osborn and would likely be challenged for cause. The evidence disclosed that this charge was wholly without merit. The Clerk did not know that the prospective juror was represented by Mr. Osborn.

The Suggester or Key Men System has been in extensive use in many of the Circuits. The use of the system was approved by the Supreme Court in *Scales* v. *United States,* 367 U.S. 203, 259 (1961) *affirming* 260 F.2d 21, 44-46 (C.A. 4, 1958), and by other Courts. *Padgett* v. *Buxton-Smith Mercantile Co.,* 283 F.2d 597 (C.A. 10, 1960) *cert. denied* 365 U.S. 828 (1961); *Windom* v. *United States,* 260 F.2d 384 (C.A. 10, 1958); *Walker* v. *United States,* 93 F.2d 383 (C.A. 8, 1937) *cert. denied* 303 U.S. 644 (1938); *United* [fol. 211] *States* v. *Hoffa,* 205 F.Supp. 710 (S.D. Fla., 1962); *United States* v. *McClure,* 4 F.Supp. 668 (E.D. Pa., 1933).

The use of suggesters does not constitute a delegation of authority. *Walker* v. *United States, supra.*

While the purpose of using suggesters was to obtain an impartial jury drawn from the names of persons representing a cross-section of the community, we know of no requirement that the suggesters themselves be selected on such a basis. Nor is it necessary that every jury contain representatives of all the various classes and groups in the community. But prospective jurors shall be selected without systematic and intentional exclusion of any of the groups. The means whereby this may be accomplished rests within the sound discretion of the courts and their

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plead guilty to the charges against them, the court was asked to permit them to be called.

"As indicated at the outset of this memorandum, this would have been at best a wholesale open court discovery proceeding, at worst an inquisition. The court could not have and did not permit it."

officers guided by statutory provisions. *Thiel* v. *Southern Pacific Co.*, 328 U.S. 217 (1946).

Although we think it would have been good practice to send questionnaires to the prospective grand jurors inquiring as to their qualifications, the failure to do so in our judgment did not invalidate the panel. The Clerk and Jury Commissioner remained in control. They reviewed the lists submitted by the suggesters and placed additional names in the box. There was no proof offered that any of the grand jurors chosen did not possess the statutory qualifications.

In the Report of the Judicial Conference Committee on the operation of the Jury System, it is stated:

> "The key-man system is the most widely used and if the key-men are selected with discretion and a view of securing diversification, it is productive of generally good results. Periodic letters to the key-men keep the lists coming in so that there is a constant supply of new names being added. A sample of such a letter asking for a list is attached to Exhibit 3. The jury commissioners may or may not use the same methods as the clerks." 26 F.R.D. 409, 470

The courts will not permit a full scale investigation to be made of its jury panel until it is suspect. If this were not so the trial of a criminal case could be diverted by un- [fol. 212] supported charges. Court officials, jurors, suggesters and other persons could be subjected to lengthy and needless inquisitions which in the future might deter them from rendering effective service to the courts.

In *Windom* v. *United States, supra,* Judge Murrah said at page 385:

> "But the burden of making a showing that some class was improperly excluded from the jury lies with the defense. *Frazier* v. *United States,* 335 U.S. 497, 69 S.Ct. 201, 93 L.Ed. 187. We will not presume that the

> key persons did not follow instructions to recommend persons who are fairly representative of the whole population of their communities. Surely, some showing of a disposition to discriminate is prerequisite to a searching investigation. The court should not be required to permit a full scale investigation of its jury panel until it is suspect."

To the same effect are *Padgett* v. *Buxton-Smith Mercantile Co., supra;* cf. *Poliafico* v. *United States,* 237 F.2d 97, 110 (C.A. 6, 1956) *cert. denied* 352 U.S. 1025; *United States* v. *Romano,* 191 F.Supp. 772, 775-776 (D., Conn. 1961).

Distinct evidence in support of the motion must be offered. *Glasser* v. *United States,* 315 U.S. 60, 87 (1942). The evidence must be more than mere statements of counsel of what they hope they will be able to prove. *Frazier* v. *United States,* 335 U.S. 497, 503 (1948).

Appellants argue that the suggester system produced exclusions; that the names of only four Negroes and two Catholics were placed in the jury box when there should have been twenty-five Negroes and Catholics to give them proportionate representation according to Census figures; that there were not enough blue collar wage earners; and that the names of only thirteen women were drawn, which were insufficient.

The Court found that the list of prospective grand jurors actually contained the names of all the classes claimed to have been excluded. This certainly does not prove systematic exclusion of cognizable elements in the community. It [fol. 213] is not required that there be a proportionate representation in the grand jury panel of all classes and religions. It is doubtful whether any system could be devised to accomplish this purpose. *Swain* v. *Alabama,* 380 U.S. 202 (1965); *Hernandez* v. *Texas,* 347 U.S. 475, 482 (1954); *Cassell* v. *Texas,* 339 U.S. 282, 286-287 (1950); *Fay* v. *New York,* 332 U.S. 261, 284-285, 291 (1947); *Akins* v. *Texas,* 325 U.S. 398, 403-404 (1945); *Padgett* v. *Buxton-*

Smith Mercantile Co., supra; United States v. *Fujimoto,* 102 F.Supp. 890, 894-895 (D.Haw. 1952).

It should be pointed out that Appellants' analysis pertained only to the one hundred names drawn, and not to the other three hundred names placed in the jury box; that the data contained in the analysis resulted from neighborhood inquiry; that there were eight panel members whose races were not disclosed; and that there were three panel members whose religious preferences were not ascertained. Without going into other discrepancies, we are of the opinion that the analysis falls far short of making the requisite showing to require a full scale investigation.

Nearly five months later (December 16, 1963) a delayed motion for rehearing was filed by Appellant Campbell, substantially joined in by Hoffa, to which were attached affidavits of three investigators, Polk, McMackin and Ziegler, who had interviewed a number of suggesters in September, 1963. It has not been explained why the filing of the motion for rehearing was delayed. These affidavits, together with the Government's cross-examination of the investigators in related cases involving the same grand jury, were received in evidence by stipulation.

In the light of the cross-examination, the affidavits of the investigators appear to be misleading. The four suggesters interviewed by Polk told him that in every case they followed the instructions contained in the letter from the Clerk or Jury Commissioner. While Polk stated in his affidavit that these suggesters gave some evidence as to bias against Negroes, they all told him that prejudice played no part in the performance of their duties as suggesters.

[fol. 214] McMackin interviewed seventeen suggesters. Nine out of twelve suggesters sent in the names of one or more Negroes. Three told him they did not. A couple told him they did not remember. One told him it was none of his business. As to the remainder, he did not know whether they did or did not. On instructions from defense counsel

he did not interview any of the suggesters from the Nashville area (Davidson County) where more than sixty-one per cent of the non-White population of the Middle District of Tennessee over twenty-one years of age reside, and where several Negroes serve as suggesters. The investigation was restricted to other counties in the Middle District in which only eight per cent of the total population over twenty-one years of age, consisted of non-White.

Ziegler interviewed nineteen suggesters. One refused to comment. Five told him that they had secured a cross-section of the community in which they resided. As to whether the suggesters returned names of Negroes on their lists, six out of twelve answered 'yes'; six answered 'no'. The other five thought they returned names of Negroes, or didn't remember. In most instances they answered that they considered that they had secured a fair cross-section of the community. They were personally acquainted with the persons selected.

In our judgment District Judge Wilson was justified in denying the delayed motion.

Supreme Court cases have indicated methods used to establish discrimination in the selection of jurors and to make out a prima facie case.

In *Hill* v. *Texas,* 316 U.S. 400, 403 (1942) an assistant district attorney for the county, who had lived in Dallas County for twenty-seven or twenty-eight years and served for sixteen years as a judge in the criminal court in which Hill was convicted, testified that he never knew of a Negro being called to serve on the grand jury. The district clerk knew of no citations issued for Negroes to serve on the grand jury. Three colored witnesses, who had lived in the county from twenty-five to fifty years, testified that they [fol. 215] had never known of a Negro being called to serve on a grand jury. Of 66,000 poll tax payers in the county, 8,000 were Negroes.

See *Arnold* v. *North Carolina,* 376 U.S. 773 (1964), where only one Negro served on grand jury in twenty-four years,

although Negroes comprised twenty-eight per cent of persons on the tax records.

In both of the cited cases the Supreme Court held that a prima facie case was made.

No such proof as to discrimination was proffered in the present case. It seems to us that if there had existed such an outrageous discrimination against Negroes, Catholics, Jews, blue collar workers, community civic leaders and liberals or progressives as was claimed by the defense, it would have been easy to show it in a place as heavily populated as the Middle District.[5] Not one Negro, Catholic, Jew, working man, union leader, or other alleged discriminatee, was called as a witness. Instead the defense wanted to engage in a fishing expedition by calling seventy-seven suggesters with whom they had no contacts at the time, with only one exception.

Had evidence been proffered as to discrimination against any cognizable group, a prima facie case might have been made requiring the Government to go forward with rebuttal, and justifying a full scale investigation by the court. *Hernandez* v. *Texas, supra.* Until then the list was not suspect.

Appellants further contend that Judge Gray in his voir dire examination of the grand jurors made no effort to determine if the members were biased against any of the defendants. The record does not support this contention.

The Court made a preliminary statement to the venire-[fol. 216] men.[6] The Court then read to the prospective

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[5] Appellants claim in their brief that 13.2% of the population over 21 years of age, in the Middle District of Tennessee, was non-White, 12% Catholic, and 2% Jewish. There were many manual or blue collar workers. There were labor unions.

[6] The statement was in part as follows:

"It is perfectly right and proper that grand juries should include those who keep up with events of current interest, read newspapers, listen to radio broadcasts, and watch television. It is not even im-

grand jurors the oath which they would be required to take. He asked the questions set forth in the footnote.[7] After excusing one prospective juror because he might have

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proper for a grand juror to let his prior information, however gained, help to guide him in taking part in an investigation.

"But it would not be proper—and I emphasize this—for a grand juror to rely on information gained outside the grand jury room in arriving at his decision whether or not to vote for a true bill against any person, or to approach an investigation with his mind made up about what result should be reached.

"Therefore, if any of you have read or heard of any alleged violation of federal law that conceivably could come before you as grand jurors, it would not be proper for you to serve unless you can honestly and conscientiously say that you will approach any investigation with an open mind and will act in your official capacity only on the evidence heard by you in the grand jury room.

"Now, a grand juror does not have to decide finally whether a man is in fact guilty or innocent—the petit jury does that after the indictment is returned. A grand juror must decide only whether or not he has seen and heard in his official investigation sufficient evidence to justify a reasonable man in *believing* an accused person is guilty of a crime. This is something more than the reasonable suspicion that will justify an investigation and something less than the moral certainty on which a petit jury acts."

[7] "Now, let me ask you a question. Does any one among you believe that anything you have seen or heard about any alleged federal crime, or crimes, has so impressed your mind that you would have any difficulty in taking that oath without any mental reservations whatsoever? If so, please raise your hand. (Indication in the negative.)

"The Court: No hands have been raised, which means to me that all of you have indicated that you feel that you can take the oath that I have read to you without any mental reservations, that you can approach any investigation with an open mind, and that you can disregard any reports or rumors that you may have heard and act only on the evidence that is presented to you in the grand jury room. Is that correct? If not, please hold up your hands. (Indication in the negative.)

"Now, let me ask you one final question. Does any one of you know of anything that would cause any reasonable person to believe honestly that you would be prejudiced in any matter that may come before a federal grand jury? If so, please raise your hands. (Indication in the negative.)

"Do you know of anything that could cause anybody else, a reasonable person to believe honestly that you would be prejudiced on

difficulty making an independent determination since he was acquainted with persons involved in newspaper publicity, the jury was sworn.

In our judgment the voir dire inquiry was sufficient. It was not necessary that the Court furnish the jurors with the names of each person who might be investigated and direct specific inquiries as to bias and prejudice against him.

[fol. 217]

Did the Trial Court Err in Denying the Motion to Suppress the Evidence of Edward G. Partin?

Partin was Secretary-Treasurer and Business Manager of Teamsters' Local No. 5 in Baton Rouge, Louisiana. He had held that position for twelve years. He had known Hoffa closely for about five years.

The evidence sought to be suppressed was the testimony of Partin at the trial which was directed chiefly at implicating Hoffa and Appellant King with the endeavors to bribe the jurors in the Test-Fleet case.

Partin testified, over the objections of the defendants, as to conversations with Hoffa in the latter's hotel room in Nashville, at the start of and during the pendency of the trial of that case, and also as to conversations with Appellant King. No one else was present during these conversations. The gist of Partin's testimony was as follows:

On the day before the trial started, Appellant King told Partin that there was "a meeting set up on the jury that night". Partin did not go to the meeting.

On that evening Hoffa motioned to Partin to come to his room. Partin testified:

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any matter coming before a federal grand jury? (Indication in the negative.)

"I think that you are qualified and the clerk will now administer the oath to the grand jury."

> "He [Hoffa] told me he'd like for me to stick around a day or two, that he might have one or two people for me to call. He said they was going to get one juror or try to get a few scattered jurors and take their chances."

Before leaving Nashville for Baton Rouge, on October 23rd, Hoffa told Partin that when he returned he might want him "to pass something for him". Hoffa put his hand behind his back and hit his rear pocket.[8]

[fol. 218] Partin returned to Nashville on October 25th and reminded Hoffa that he might want him to pass something for him. Hoffa replied:

> "The dirty bastards went in and told the Judge that his neighbor had offered him $10,000. We are going to have to lay low for a few days."

Partin had conversations with Appellant King on October 26th in which King informed him that one of the lady jurors was married to a highway patrolman, whom he would endeavor to contact. King said that he was acquainted with a friend of the juror and would try to have the friend talk to her "to get her swayed toward Mr. Hoffa." King said "that the patrolman and his wife had money, but they loved money and $10,000 was a lot of money". King told Partin that he intended to circulate in the neighborhood where the highway patrolmen hung out and "see if they knew anyone on the jury that they could get to". King told Partin that the closest person to the highway patrolman was deer hunting in Montana.

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[8] The selection of the jury started in the Test-Fleet case that morning. When the Court adjourned for the day prospective juror Tippens returned a telephone call made to him by his neighbor Medlin. He met with Medlin who offered him $10,000. in $100 bills, to influence his vote as a juror. Tippens reported this to the Presiding Judge, and was excused as a juror.

On October 29th Hoffa requested Partin to telephone Billy Wade, an All-American football player from Nashville, "to come into town and circulate around and see if he knew anyone he could get to on the jury, and to come into the court room and shake hands and mix up with the defendants". Partin was unable to reach Wade. On that same day Hoffa told Partin, "I would pay $15,000 or $20,000, whatever it costs, to get to the jury".

On October 30th King pointed out to Partin a woman sitting in the courtroom, and said she was to speak to juror Mrs. Paschal.

On November 4th Partin met Hoffa and King in a hallway of the hotel. Hoffa told Partin he was "raising Cain at King, said he wasn't doing what he told him to do". He said that "King keeps telling me he can get the patrolman but he don't get to him", and that "He keeps talking about it and fumbling around". Later King told Partin that he thought the highway patrolman would go along and that [fol. 219] he had arranged to meet him the following Sunday at midnight at a spring behind a farm. There was no such meeting held that Sunday.

On November 7th Hoffa told Partin:

> "I have got the colored male juror [Fields] in my hip pocket. One of my business agents Campbell came into Nashville prior to the trial and took care of it."[9]

He said the juror would not take any money but would not "go against his own people".

Hoffa said:

> "Our best bet is a hung jury unless we can get to the foreman of the jury. If they have a hung jury, it will

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[9] Appellant Campbell is a Negro and is the nephew of Appellant Parks. Parks' efforts were directed at bribery of the son and contact with the daughter of the juror, Gratin Fields, who was the only male Negro on the jury.

be the same as an acquittal because they will never try the case again."

On November 14th Partin was present during a conversation between Hoffa and King. He said Hoffa was on King again about not making a contact like King told him he would and Hoffa "wanted some insurance". On the same day King told Partin that he was planning to meet the patrolman (Paschal). Partin heard Hoffa call King "a stupid s.o.b. for thumbing around and not getting the job done". On the following day Partin discussed with King "the contacts to be made with the patrolman".[10]

On November 19th King related to Hoffa the details concerning his meeting with Paschal. On the same day Hoffa told Partin he "was disturbed because the Highway Patrolman wouldn't take the money . . . if he had taken the [fol. 220] money it would have pinned him down and he couldn't have backed up".

The ground of the motion to suppress was that the Government had planted an informer (Partin) in the midst of the defendants and their counsel, which interfered with their rights to the effective assistance of counsel in the Test-Fleet case, and was in violation of the Fourth, Fifth and Sixth Amendments to the Constitution.

The District Judge conducted an extensive hearing on the motion in the absence of the jury, at which a number of witnesses testified. The witnesses called by the defense included Partin, the attorneys for the Government, a special Assistant to the Attorney General, the District Attorney for the Ninth Judicial District in Louisiana, and his

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[10] King and one Pitts did meet with Patrolman Paschal at midnight at a river spring. King offered Paschal a promotion if he would speak to his wife who was on the jury. Paschal told King he would speak to his wife. The Court on motion of the Government, excused Mrs. Paschal from the jury on December 6, 1962, after a closed hearing. On December 20, 1962, Fields was excused from the jury on motion of the Government. An affidavit by Partin as to the remarks made to him by Hoffa on November 7 was submitted to the Court in sealed form.

Administrative Assistant, and a number of the attorneys who represented Hoffa in the Test-Fleet case.

At the conclusion of the hearing the Court adopted findings of fact and denied the motion to suppress the evidence.[11] These findings were supplemented in the Court's memorandum denying the motion for a new trial.[12]

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[11] "Gentlemen, the Court has overnight read all the cases that were cited last evening including I find all but two of the cases that are cited this morning in any of the memoranda and I have looked at those this morning. And have read other cases which I do not find cited in the memoranda. The Court is of the opinion that the motion to suppress the testimony of the witness Mr. Partin should be overruled, having observed the manner and demeanor of the witness on the witness stand, and the testimony of the witnesses, I would find that there has been no interference by the government with any attorney-client relationship of any defendant in this case.

" 'I would further find that the government did not place this witness Mr. Partin in the defendants' midst or have anything to do with placing him in their midst, rather that he was knowingly and voluntarily placed in their midst by one of the defendants.'

"As the Court understands and interprets the law, there is no basis for denying the government the use of this witness' testimony in this case."

[12] "The action of the Court in denying the motions of the defendants to suppress the testimony of the witness Partin is complained of in Grounds 41 and 42 of the motions for new trial. It is contended that one of the findings of fact of the Court with respect to the motion to suppress was rendered incorrect by subsequent evidence in the case. It is contended that the telephone transcriptions of the telephone calls between Partin and Hoffa on October 8 and 18, 1962, established that the defendant Hoffa did not invite Partin to Nashville. The telephone transcriptions reflect that the defendant Hoffa agreed to an appointment to see Partin in Nashville. Even if the defendant Hoffa did not initiate the invitation of Partin to come to Nashville, but rather Partin solicited the invitation, this does not in any way alter the Court's finding that the Government did not place or keep Partin with the defendant Hoffa. Neither does it in any way relate to or in any way alter the Court's finding that there was no illegal interference with the right of the defendant Hoffa to representation by counsel. The Government requested of Partin only that he report information of jury tampering or other illegal activity of which he became aware. Partin voluntarily furnished such information. He remained in Nashville or returned to Nashville either at the request or with the consent of the defen-

[fol. 221] In substance, the Court found from the evidence that the Government did not place Partin in the midst of the defendants, but that he was there by invitation of one of the defendants (Hoffa). The Court further found that there was no interference with the attorney-client relationship of any defendant in the case.

The evidence at the hearing on the motion to suppress, disclosed that shortly before the trial of the Test-Fleet case Partin was in the East Baton Rouge Parish jail on a state kidnapping charge. The charge grew out of a family quarrel in which Partin assisted a friend, who was the father, in kidnapping his own children from his separated wife. While in jail Partin requested a meeting with the state prosecuting officials. He met with Daniels, the Administrative Assistant to State District Attorney Pitcher, and later with Pitcher, Daniels, Duffy, an Assistant U.S. District Attorney, and Grimsley, an attorney in the Criminal Division of the Department of Justice. Partin informed them of an alleged plot by Hoffa to murder Robert F. Kennedy, then Attorney General of the United States. At this meeting Pitcher told Partin that if the kidnapped children were returned unharmed he would become eligible for bond, but so long as the children were held his offense was non-bailable under Louisiana law. Shortly thereafter the children were returned unharmed and Partin was released on $5,000. bail.

After his release on bail, Partin met with Daniels at the Holiday Inn in Baton Rouge. Daniels was conducting an [fol. 222] investigation as a state law enforcement officer. He had not been asked to do so by the Federal Government. Partin placed a number of telephone calls to different people and recorded some of them on a recording device

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dant Hoffa and not at the instruction of the Government. Finally, the presence of Partin during the course of the Nashville trial and the reporting of information by him does not in any way relate to the rights of the defendants in the preparation and trial of this lawsuit. As a matter of law, the motions to suppress were properly overruled."

furnished by Daniels. He recorded a call to Hoffa in Washington, in which Partin requested a meeting with Hoffa, and another one to Hoffa in New Jersey, in which Hoffa agreed to meet Partin at the hotel in Nashville where Hoffa intended to stay during the trial. These recorded telephone calls were offered in evidence by the defense. Grimsley did not ask Partin to call Hoffa.

A few days thereafter Partin met with Grimsley, the Department of Justice attorney, and Daniels in Atlanta. After discussing other matters not pertaining to this case, Grimsley asked Partin if he intended to meet with Hoffa in Nashville. Upon being advised of the appointment, Grimsley asked Partin to keep his ears and eyes open and to report any attempts at witness intimidation or jury tampering, either to Grimsley or to Walter Sheridan, a Special Consultant to the Attorney General. Grimsley gave Partin Sheridan's Nashville telephone number.

During the Test-Fleet trial Partin did telephone Sheridan frequently and advised him concerning the plans to bribe the jurors. Partin was present in the hotel on one occasion during the Test-Fleet trial when defense counsel Bufalino interviewed some truck drivers and prepared questions and answers which he asked the truck drivers to memorize. Partin related this incident to Sheridan. There was no proof that the testimony of the truck drivers was transmitted to the Government.

Partin was in and out of Nashville a number of times during the trial, looking after his own business.

It is significant that all of the conversations between Partin and Hoffa relative to jury tampering, which were sought to be suppressed, took place in the absence of counsel and with no witnesses present. The same is true with respect to Partin's conversations with Hoffa and King, and [fol. 223] with King alone. Partin testified as to no communication between the defendants and their attorneys.

The credibility of the witnesses on the motion to suppress was for the District Judge to determine. *United*

States v. *Vita,* 294 F.2d 524, 528 (C.A. 2, 1961) *cert. denied* 369 U.S. 823.

In our judgment the findings of fact of the District Judge on the motion to suppress, as supplemented by his memorandum on the motion for a new trial, were supported by substantial evidence and are not clearly erroneous. *United States* v. *McGavic,* 337 F.2d 317, 319 (C.A. 6, 1964) *cert. denied* 380 U.S. 933; *Villano* v. *United States,* 310 F.2d 680 (C.A. 10, 1962); *United States* v. *Page,* 302 F.2d 81 (C.A. 9, 1962); *United States* v. *Mathis,* 298 F.2d 790 (C.A. 6, 1962) *cert. denied* 370 U. S. 947; *Biggs* v. *United States,* 246 F.2d 40 (C.A. 6, 1957) *cert. denied* 355 U.S. 922.

Appellants rely on *Caldwell* v. *United States,* 205 F.2d 879 (C.A. D.C. 1953) *cert. denied* 349 U.S. 930 and *Coplon* v. *United States,* 191 F.2d 749 (C.A. D.C. 1951) *cert. denied* 342 U.S. 926. We think both of these cases are inapposite.

In *Caldwell* the Government informer was present in the defense camp during the trial in which the conviction was obtained. He was hired by the Government to work in the defense camp and regularly attended meetings between defense counsel and witnesses. He reported many matters connected with the impending trial. In that case there was an interference with the attorney-client relationship. The Court recognized, however, that a surreptitious police effort "to get evidence" was proper and could not be excluded from consideration. *Id* at 881 fn. 10. In *Coplon* the Government intercepted communications between defendant and her attorney.

We doubt that the relaying of the small amount of information relative to the truck drivers had any effect on the validity of the Test-Fleet trial. Cf *United States* v. *Lebron,* 222 F.2d 531 (C.A. 2, 1955) *cert. denied* 350 U.S. 876; *United States ex rel. Cooper* v. *Denno,* 221 F.2d 626 [fol. 224] (C.A. 2, 1955) *cert. denied* 349 U.S. 968. Partin was not asked to testify as to truck drivers' statements in the present trial. There was no proof that he had read the statements or knew what was in them.

But we are not called upon in this case to determine the effect of Partin's activities on the Test-Fleet trial. The

present trial for jury tampering involved an entirely different and unrelated offense. This also distinguishes *Caldwell* and *Coplon*, which involved the effect of illegality on the first trials.

The attorney-client relationship would offer no shield to either client or attorney if the client had been engaged in a plan to commit a crime in the future. *Clark* v. *United States*, 289 U.S. 1, 15 (1933); *Sawyer* v. *Barczak*, 229 F.2d 805, 809 (C.A. 7, 1956) *cert. denied* 351 U. S. 966, *rehearing denied* 352 U.S. 860; *United States* v. *Weinberg*, 226 F.2d 161, 172 (C.A. 3, 1955) *cert. denied* 350 U.S. 933.

Appellants urge that the testimony of Partin should have been suppressed because it was illegally obtained, being "the ill-gotten 'fruit of the poisoned tree'". They cite *Wong Sun* v. *United States*, 371 U.S. 471 (1963); *Nardone* v. *United States*, 308 U.S. 338 (1939); *Silverthorne Lumber Co.* v. *United States*, 251 U.S. 385 (1920). They state that this sanction is necessary to deter the Government from engaging in an unconstitutional invasion of the right to counsel.

But we have pointed out that there was no invasion by the Government of the defendants' right to counsel. Even if the evidence were tainted (which it was not), it could only affect the validity of the Test-Fleet trial and not a subsequent trial for a different offense. In *Caldwell* the Court quoted from *Coplon* to the effect that Government interception of communications between a defendant and his attorney—

> "... invalidates the trial at which it occurred and requires a verdict of guilty therein to be set aside, regardless of whether prejudice was shown to have resulted from the denial." *Caldwell* v. *United States*, *supra*, at 881.

[fol. 225] In *Coplon* the Court directed "a new trial at which the accused can be free of surreptitious interception . . ." *Id* at page 760. This indicates rather clearly

that the Court did not regard the interception as preventing a retrial of the case. The same is true in *Caldwell* where a new trial was ordered.

In *Martin* v. *United States,* 335 F.2d 945 (C.A. 9, 1964) and *United States* v. *Guerra,* 334 F.2d 138 (C.A. 2, 1964) *cert. denied* 379 U.S. 936, the Courts held that illegal conduct occurring at the first trial did not taint all subsequent proceedings. *United States* v. *McGavic, supra; Rogers* v. *United States,* 330 F.2d 535 (C.A. 5, 1964) *cert. denied* 379 U.S. 916; *Burke* v. *United States,* 328 F.2d 399 (C.A. 1, 1964) *cert. denied* 379 U.S. 849.

Appellants argue that the evidence was obtained by fraud and artifice. Even if true, this would not render it inadmissible. *Lopez* v. *United States,* 373 U.S. 427 (1963); *United States* v. *Thomas,* 303 F.2d 561 (C.A. 6, 1962); *Wellman* v. *United States,* 227 F.2d 757, 770 (C.A. 6, 1955) *rev'd on other grounds,* 354 U.S. 931.

In *Olmstead* v. *United States,* 277 U.S. 438, 468 (1928) the Court stated that evidence obtained by the use of informers "has always been received".

The testimony of Partin sought to be suppressed related not to trial strategy in the Test-Fleet case, but to illegal endeavors to bribe or influence jurors. Informing the Government of the existence of such evidence did not interfere with the rights of Appellants to the effective assistance of counsel. They had no lawful right to engage in such conduct, either with or without the assistance of counsel. There was no evidence here that counsel knew anything about the unlawful endeavors.

Prior Inconsistent Statements of Witnesses

The fact that a witness may have made prior sworn or unsworn statements, inconsistent with his testimony at the trial, does not require the exclusion of his testimony. [fol. 226] In the present case witnesses were cross-examined extensively by the defense, not only concerning alleged prior inconsistent statements but also concerning their

motives. In particular Partin was cross-examined at great length concerning many incidents which took place during his life, including his taking the Fifth Amendment before the Grand Jury, his criminal record, and the pending untried charges against him. The jury was fully informed as to his record.

The credibility of the witnesses was for the jury to determine. *United States* v. *Aviles,* 274 F.2d 179 (C.A. 2, 1960) *cert. denied* 362 U.S. 974, 362 U.S. 982, *rehearing denied* 363 U.S. 858; *United States* v. *Reina,* 242 F.2d 302, 307 (C.A. 2, 1957); *Henderson* v. *United States,* 218 F.2d 14, 17 (C.A. 6, 1955) *cert. denied* 349 U.S. 920, *rehearing denied* 349 U.S. 969.

The jury could also consider the alleged threats to a witness. *Enriquez* v. *United States,* 314 F.2d 703 (C.A. 9, 1963); *Nichols* v. *United States,* 276 F.2d 147, 148 (C.A. 6, 1960) *cert. denied* 364 U.S. 815.

Surveillance

Appellants contend that they were denied the effective assistance of counsel because of surveillance conducted by the Government during the course of the trial. The trouble is that the claim is not supported by the evidence.

The trial judge conducted a hearing on this matter at the close of the trial. The defense called a number of witnesses at the hearing, including agents of the F.B.I., attorneys for the defendants, and one, Bernard B. Spindel, an electronics expert employed by one of the defendants, who specialized in detection, listening and monitoring devices. The hearing consumed two full trial days, and is contained in two hundred pages of the record.

The trial judge found that the evidence failed to establish any surveillance by Government agents, of the defendants, their attorneys or witnesses, or any interference with the defendants and their counsel.

[fol. 227] In his memorandum denying the motion for a new trial, the trial judge pointed out that:

"The only surveillance shown by the record was (1) observations made by the F.B.I. during the period prior to the completion of the selection of the jury of four individuals (George E. Hix, John Cleveland, William A. Test, and Charles L. O'Brien), who were neither parties nor attorneys, nor witnesses in the case but were connected with the Teamsters organization; (2) the surveillance by the F.B.I. of one Bernard Spindel, a person having a reputation in the field of telephonic and electronic interceptions who came to Chattanooga from New York during the trial; and (3) surveillance of the F.B.I. by said Spindel on behalf of the defense by interception of F.B.I. radio communications."

An examination of the record convinces us that these findings of fact of the District Judge were supported by substantial evidence and are not clearly erroneous.

The time for conducting the hearing was within the discretion of the Judge. We find no abuse of discretion.

Motion for Continuance of Trial on Account of Newspaper Publicity

The District Court ordered transfer of the case for trial to Chattanooga on account of the newspaper publicity in Nashville. A motion for continuance was made on account of newspaper publicity in Chattanooga.

The newspaper publicity was not all adverse to Hoffa. Some of it contained statements made on behalf of Hoffa by his own counsel.

The Court found that the newspaper publicity did not have prejudicial context; that most of it did not relate to the issues of the case; and that some of it related to pretrial procedures and trial preparations.

The voir dire examination of the prospective jurors consumed about five days. They were questioned at great [fol. 228] length by counsel for the defendants. The examination did not disclose that the prospective jurors had been influenced by newspaper publicity.

The matter of continuance rested within the sound discretion of the trial judge. We find no abuse of discretion in the denial of the motion for a continuance.

Appellants further complained about the number of Deputy United States Marshals attending the trial. They were dressed in plain clothes. After the jury was empaneled the Court limited the number to four. The Court had the right to provide for the presence of Deputy United States Marshals for the protection of witnesses, parties, jurors, and to insure court room decorum. This involved a discretionary matter, which we do not find was abused.

Was the Testimony of Prospective Juror Tippens with Respect to the Bribery Offer Made to Him by Medlin Inadmissible as Hearsay Evidence?

Count II of the indictment charged Medlin as a principal, and Hoffa as an aider and abettor, in offering the bribe of $10,000 to prospective juror Tippens if he would vote for acquittal of Hoffa in the Test-Fleet case.

As before stated, Medlin was granted a separate trial when this Court, by writ of mandamus, ordered his case retransferred to Nashville. The case proceeded against Hoffa alone on Count II.

Tippens had been seated in the jury box as juror No. 12 in the Test-Fleet case and had been passed by the Government.

The Court in the present case would not allow Tippens, who was called as a witness by the Government, to testify as to the content of his conversation with Medlin, in the absence of Hoffa, which he ruled was inadmissible. The content was proffered by the Government. Tippens was allowed to testify only as to the fact of the conversation and the matter of any report which he made to Judge Miller (the trial judge in the Test-Fleet case) which would be received only insofar as the same might or might not tend [fol. 229] to corroborate Partin's testimony as to alleged statements made by Hoffa to Partin.

The Court permitted the Government to read to the jury, as a court record, the transcript of a statement made by Judge Miller at a conference in his chambers in the Test-Fleet case, in which the judge advised Hoffa and his attorneys and the attorneys for the Government, of the substance of Tippen's report concerning Medlin's activities. The Court ruled that the evidence could be considered only as it might tend to corroborate Partin's testimony.

Appellant's position is that this evidence was pure hearsay and inadmissible for any purpose against any defendant, and that it was prejudicial error for the court to admit it.

If Medlin had been tried with Hoffa on Count II, the evidence would certainly have been admissible against Medlin. If Medlin had died or was unavailable for trial, the Government could still proceed against Hoffa alone as an aider and abettor. The charge against Hoffa, as an aider and abettor, was not expiated by reason of the inability of the Government to proceed in the same case against Medlin.

Before Hoffa could be convicted as an aider and abettor, however, it was necessary for the Government to prove that the principal, Medlin, committed the crime. *Shuttlesworth* v. *Birmingham,* 373 U.S. 262, 265 (1963); *Hendrix* v. *United States,* 327 F.2d 971, 975 (C.A. 5, 1964); *Edwards* v. *United States,* 286 F.2d 681 (C.A. 5, 1960); *Karrell* v. *United States,* 181 F.2d 981 (C.A. 9, 1950).

The only way open for the Government to prove that a crime had been committed was by the testimony of Tippens, who was the recipient of the bribe offer, as no witnesses were present when the bribery was attempted. Bribery attempts are not ordinarily made in public.

The *corpus delicti* of the crime was the offering of the bribe by Medlin to the juror Tippens. It would not, in our judgment, violate the hearsay evidence rule for the Government to prove the *corpus delicti* by having Tippens narrate [fol. 230] the facts concerning the crime committed by Medlin, which necessarily had to include his conversation with

Medlin. The proof of the *corpus delicti* did not implicate any of the defendants.

After establishing that a crime had been committed, the Government had the burden to connect Hoffa with it as an aider and abettor. This the Government endeavored to do by the testimony of Partin concerning the statements made to him by Hoffa shortly prior to and during the course of the Test-Fleet trial, from which the jury might draw inferences as to Hoffa's participation in the crime. These statements were not only admissible as to Count II, but also as to Counts III, IV and V. They were probative evidence of his intent, plan and design. We realize that Hoffa, when called as a witness, denied the statements attributed to him by Partin; but it was for the jury to decide whether to believe Hoffa or Partin.

Thus the testimony of Tippens was admissible as evidence to establish that a crime had been committed. It was also admissible for the purpose stated by the District Judge, namely, insofar as it might or might not tend to corroborate the testimony of Partin as to the alleged statements made to him by Hoffa. Considerable latitude must be allowed in the admission of corroborative evidence. 28 C.J.S. Witnesses, § 648.

We think the District Court erred in restricting the Government's proof. The error resulted in a dismissal of Count II of the indictment. Since the error was favorable to Hoffa, he cannot complain.

It follows that inasmuch as the proof admitted was less than what the Government was entitled to present, there was no error in admitting the limited evidence.

Conspiracy

Appellants complain about the trial court's instructions to the jury, which were given from time to time during the progress of the trial in connection with the introduction of evidence of out-of-court statements of some of the defendants and others who, the Government's proof tended to [fol. 231] show, were jointly engaged in the commission of

the bribery endeavors. These instructions were on the subjects of conspiracy and principal and agent. It is argued that since Count I of the indictment charging conspiracy was severed by order of the Court, evidence of a conspiracy in connection with the proof of the substantive offenses was inadmissible and that it was prejudicial error for the Court to define that term to the jury.

The trial judge submitted to the jury only the substantive offenses charged in the indictment. He did not submit the crime of conspiracy, nor tell the jury that conspiracy was a separate offense.

Even though Congress has created a separate crime of conspiracy, it is settled that joint participators in the commission of the substantive offenses may be denominated as conspirators. *Kumpe* v. *United States,* 250 F.2d 125 (C.A. 5, 1957). The conspiracy may be shown as an evidentiary fact to prove participation in the substantive crime. 16 Am.Jur. 2d, Conspiracy, § 38, p. 147 (1964).

It was the function of the Court to define the term 'conspiracy' and to instruct the jury as to the circumstances under which the out-of-court statements were admissible.

In our judgment the Court's definition of conspiracy was correct. He further instructed the jury that they could consider an out-of-court statement only as to the particular defendant who made the statement, until and unless the jury was satisfied from other evidence in the case that the defendant making the statement was a co-conspirator of one or more of the other defendants, in which event the jury could consider such evidence against any other defendant shown by such other evidence to have been a co-conspirator. The Court made it clear that the other evidence could not consist of hearsay declarations. The Court also instructed the jury that statements made by an agent within the scope of his authority were admissible not only against the agent but also against his principal.

Appellants contend that the Court should have determined as a matter of law whether there was proof *aliunde* [fol. 232] of joint conspiracy instead of submitting it to the

jury. They rely on *Carbo* v. *United States,* 314 F.2d 718 (C.A. 9, 1963) *cert. denied* 377 U.S. 953, and *United States* v. *Dennis,* 183 F.2d 201 (C.A. 2, 1950) *aff'd* 341 U.S. 494. The Court submitted the factual issue to the jury rather than determine it as a matter of law. *United States* v. *Dorsey,* 290 F.2d 893 (C.A. 6, 1961) *cert. denied* 368 U.S. 825; *Continental Baking Co.* v. *United States,* 281 F.2d 137 (C.A. 6, 1960); *Schmeller* v. *United States,* 143 F.2d 544 (C.A. 6, 1944).

We think there was sufficient evidence to make out a prima facie case linking Appellants with the conspiracy and the Court would have been justified in so holding in accordance with the rule of *Carbo* and *Dennis.* Submitting the issue to the jury instead of determining it as a matter of law was more favorable to the Appellants and they were not prejudiced thereby. *United States* v. *Stromberg,* 268 F.2d 256 (C.A. 2, 1959) *cert. denied* 361 U.S. 863. There was substantial evidence that the out-of-court statements were made in furtherance of the conspiracy.

The Court's instructions, in our judgment, properly limited the jury's consideration of the evidence. He repeated them on several occasions and referred to them many times as the evidence was offered. The Court further charged the jury that—

> "Each defendant is entitled to have his case determined from his own acts and statements, and from other evidence in the case which may be applicable to him, or be admitted by the Court as to him."

Only three counts of the indictment were submitted to the jury. The jury returned a not guilty verdict on Count IV and guilty verdicts on Counts III and V. We think that the jury understood the Court's instructions and was not confused or misled by them.

Since the Court had repeated or referred to his instructions relative to the out-of-court statements many times during the trial, it was not necessary for him to advert to them again in his final instructions to the jury.

[fol. 233] Joinder of Offenses and Defendants

Appellants contend that there was a misjoinder of offenses and defendants in the indictment which operated to their prejudice during the trial, and that the Court erred in denying their motions for severance.

Joinder of offenses and defendants is governed by Rule 8 of the Federal Rules of Criminal Procedure. Rule 8(a) relates to joinder of offenses. It authorizes joinder—

> "... if the offenses charged ... are of the same or similar character or are based on ... two or more acts or transactions connected together or constituting parts of a common scheme or plan."

Counts II, III and V charged offenses of the same character, namely, endeavors to influence different jurors in the Test-Fleet case, in which only Hoffa was on trial. Count IV alleged an offense of similar character, namely, to obstruct justice in that trial. The obstruction of justice related to activities concerning a juror.

Hoffa was named in all counts. He was the only defendant on trial under Count II. In addition to Hoffa, Campbell and Parks were named in Count III, Dorfman and Tweel in Count IV, and King in Count V. All four counts involved the violation of the same statute, 18 U.S.C. 1503. The joinder of offenses, in our opinion, came clearly within the provisions of Rule 8(a). *United States* v. *Koury,* 319 F.2d 75 (C.A. 6, 1963).

Castellini v. *United States,* 64 F.2d 636 (C.A. 6, 1933), relied on by Appellants, is not in point. It was decided prior to the adoption of the Federal Rules of Criminal Procedure and involved a statute which did not authorize consolidation of counts involving different defendants. (Id. 636, 637, 721) It was distinguished in *Ross* v. *United States,* 197 F.2d 660 (C.A. 6, 1952) *cert. denied* 344 U.S. 832.

[fol. 234] Rule 8(b) authorizes joinder of defendants—

> "... if they are alleged to have participated ... in the same series of acts or transactions constituting an offense or offenses."

"[They] may be charged in one or more counts together or separately and all of the defendants need not be charged in each count."

It seems to us that the acts of the defendants were certainly connected, *Kivette* v. *United States,* 230 F.2d 749 (C.A. 5, 1956) *cert. denied* 355 U.S. 935, or factually related, *Williamson* v. *United States,* 310 F.2d 192 (C.A. 9, 1962). They all concerned endeavors to influence jurors in the Test-Fleet trial. They were all committed in the same locality and during the course of that trial. They all had a common objective, namely, to prevent a guilty verdict against Hoffa.

The fact that evidence may be admissible against one defendant, but not against others does not require separate trials. Such a situation is usually present in joint trials. *Rizzo* v. *United States,* 304 F.2d 810 (C.A. 8, 1962) *cert. denied* 371 U.S. 890.

In passing upon the various motions for severance, the District Court was required to exercise its discretion. We do not find that it was abused or that defendants were prejudiced by the denial of those motions. *Opper* v. *United States,* 348 U.S. 84, 95 (1954).

The Alleged Fraud on the Grand Jury

Appellants contend that the Government perpetrated a fraud on the Grand Jury by subpoenaing Partin and his claiming that answering questions would incriminate him. They argue that the indictment should have been dismissed or quashed. The evidence does not support this charge.

It should be noted that after receipt of the subpoena, Partin took up the matter with one of Hoffa's attorneys, Bufalino, who advised him to take the Fifth Amendment, and instructed him how to do it. He also discussed the [fol. 235] matter with a Nashville lawyer, to whom he had been referred by Bufalino, and who gave him the same advice. There was no evidence that Partin had been instructed by the Government to claim his constitutional privilege.

Partin testified that he acted on the instructions of Bufalino. The Government further states that Partin was not the only witness who took the Fifth Amendment. Fourteen other witnesses did so. It offered to permit *in camera* inspection of the Grand Jury transcript by the Court to substantiate this point.

We cannot assume improper conduct on the part of Government agents in the absence of evidence. Partin had the constitutional right to invoke the Fifth Amendment.

Even though he had been acting as a Government infomer, the Grand Jury could have indicted him for his activities in connection with the offense charged in Count IV.

The Government was not obligated to call Partin as a witness before the Grand Jury, much less to persuade him to testify, even assuming that it might have been able to do so.

Competency of Evidence to Warrant Indictment

It is further contended that without the testimony of Partin there was no competent evidence before the Grand Jury to support the indictment of Hoffa. This would not justify quashing the indictment. *Martin* v. *United States,* 335 F.2d 945 (C.A. 9, 1964). Hearsay evidence is sufficient. *Costello* v. *United States,* 350 U.S. 359 (1956).

Disclosure of Grand Jury Minutes

We find nothing irregular in the limited disclosure of Grand Jury minutes to the Special Consultant to the Attorney General and the agents of the F.B.I. who were working on the case. Fed.R.Crim.P.6(c).

If the disclosures were unauthorized, any violators of the Rule could be punished for contempt, but dismissal of the indictment would not be justified. *United States* v. *United States District Court,* 238 F.2d 713, 721-722 (C.A. 4, 1956) *cert. denied* 352 U.S. 981.

[fol. 236]

Sufficiency of Indictment

We think the indictment charging Hoffa as an aider and abettor was sufficiently definite. It was not necessary to particularize the acts constituting the aiding and abetting. One who aids and abets in the commission of a crime is just as guilty as the principal. The indictment did describe the principal offenses, which is all that was necessary. *Coffin* v. *United States,* 156 U.S. 432 (1895); *United States* v. *Simmons,* 96 U.S. 360 (1877); *Ellis* v. *United States,* 321 F.2d 931 (C.A. 9, 1963).

Production of Grand Jury Minutes

Appellants contend that the District Court erred in not ordering the production of the Grand Jury minutes containing the testimony of the witness Partin, which they desired to use for impeachment purposes in connection with their cross-examination.

On direct examination of Partin, no questions were asked of him concerning his testimony before the Grand Jury. The defense brought out on cross-examination the fact that Partin had appeared before the Grand Jury and refused to answer questions on the ground of self-incrimination.

It is claimed that Partin's invoking the privilege against self-incrimination before the Grand Jury was inconsistent with the fact that he testified at the trial and therefore the minutes should have been furnished to the defense for impeachment purposes.

When the question was presented, the District Court required the production of the Grand Jury minutes for *in camera* inspection. The Court declared a recess and read the transcript. He then determined from his *in camera* inspection that the minutes were not subject to production.

We have read the transcript and are of the same opinion.

There was no inconsistency in the testimony of Partin on the subject of the Fifth Amendment. He admitted on cross-examination that he had invoked the privilege against [fol. 237] self-incrimination before the Grand Jury. It was not necessary to introduce the Grand Jury minutes to prove

the same thing which was already admitted and was before the jury. Admitting the transcript would be merely cumulative evidence on a matter which was not in dispute.

Invoking the constitutional privilege against self-incrimination before a Grand Jury does not give rise to an inference that the witness has done something wrong or that he is guilty of an offense. *Grunewald* v. *United States,* 353 U.S. 391 (1957).

It is debatable whether the Court should have allowed any cross-examination relative to the witness' taking the Fifth Amendment. In permitting cross-examination on the subject, the Court certainly accorded the defendants everything to which they were entitled.

When the Court determined that there was no inconsistency, he was not obliged to turn over the Grand Jury minutes to the defense. *United States* v. *Keegan,* 331 F.2d 257 (C.A. 7, 1964) *cert. denied* 379 U.S. 828; *United States* v. *Giampa,* 290 F.2d 83 (C.A. 2, 1961).

We find nothing irregular or prejudicial in the fact that Appellants Parks, Campbell and King were subpoenaed before the Grand Jury. No claim is made that they were not advised as to their rights. *United States* v. *Annunziato,* 293 F.2d 373 (C.A. 2, 1961) *cert. denied* 368 U.S. 919.

Sufficiency of the Evidence to Support Convictions of Hoffa and Campbell

Appellants contend that giving full credence to Partin's testimony and the other evidence in the case, it was insufficient to convict Hoffa and Campbell on Count III of the indictment. We do not agree.

In determining whether the motions for judgments of acquittal should have been granted, we are required to consider the evidence in the light most favorable to the Government. *United States* v. *Decker,* 304 F.2d 702, 705 (C.A. 6, 1962). [fol. 238] There can be no question but that endeavors were made to tamper or bribe, not merely one juror, but at least three of the jurors in the Test-Fleet case. A number of persons participated in the illegal acts. The result of

the trial was a "hung jury". The question here is whether Hoffa and Campbell were linked with the endeavors by sufficient evidence.

(A) Hoffa

Hoffa was the only defendant in the Test-Fleet case. He was the only person who could possibly benefit from the jury-tampering activities. The obvious purpose of the activities was to prevent a verdict of guilty. Hoffa thus had "a stake in the venture". *Direct Sales Co.* v. *United States*, 319 U.S. 703, 713 (1943).

Hoffa was most certainly linked with the illegal activities by the testimony of Partin, which we have heretofore detailed. The statements of Hoffa to Partin were made during the progress of the Test-Fleet trial, when the unlawful acts were being committed. These statements, if they are to be believed, indicated much more than mere knowledge on the part of Hoffa as to what was going on.

It was for the jury to decide whether to believe Hoffa or Partin. In so doing, the jury had the right to consider all of the evidence in the case, including inferences properly deductible therefrom.

We think that the jury could reasonably have concluded from the evidence that the large scale endeavors at jury tampering were not brought about by spontaneous action of the other participants who derived no benefit therefrom and were risking criminal prosecution; and that the endeavors resulted from instigation, careful planning and agreement in which Hoffa was an active participant.

(B) Campbell

Campbell was a business agent of Local 299, a Teamsters Union in Detroit. He was a nephew of Appellant Parks. [fol. 239] The Government claimed that Campbell was the intermediary between Hoffa and Parks.

Partin testified that Hoffa told him that he (Hoffa) had the Negro juror Fields in his hip pocket, and that Campbell came to Nashville and took care of it.

The Government concedes that this statement may not be considered unless Campbell was connected with the conspiracy by other evidence.

Parks was connected as an active participant in the offense by positive evidence of eye witnesses. Parks told Carl Fields, son of the juror Gratin Fields, that he needed certain information from Carl about his father because he had to make a call to Louisville by nine o'clock. This was admissible as an exception to the hearsay rule, because it was a statement as to Parks' intent to do an act, as evidence of the probable doing of it. *Mutual Life Ins. Co.* v. *Hillmon,* 145 U.S. 285 (1892); *Rogers* v. *United States,* 334 F.2d 83 (C.A. 5, 1964).

Campbell had left his home in Detroit for Louisville about two days before the commencement of the Test-Fleet trial. During October and November, 1962, he remained in Louisville for about twenty-eight days, staying at Mrs. Brown's Guest House. Parks came to Louisville once or twice during this time and met Campbell. Campbell told Mrs. Brown that he "might have to go to Nashville, and if so he would return over the weekend".

A lady companion who testified that she was with Campbell on a daily basis, said that they were both relaxing and she did not observe him doing any work. He told her that "his boss was in trouble".

Parks called Campbell on the telephone from Nashville the night before the trial started. Shortly thereafter, which was past midnight in Detroit, Campbell called Hoffa's residence in Detroit twice from a pay telephone in Louisville, paying cash for the call although he had a Union credit card. Ten minutes after the second telephone call, Campbell received a telephone call at the same pay station, which was made from a pay station in Detroit near Hoffa's residence, [fol. 240] and which was charged to the credit card of Local 299. After that call had been completed, a call was made from the same pay station in Detroit to Hoffa's room in a Nashville hotel. That evening Campbell called Parks in Nashville and placed calls for him on each of the following two days from pay telephones.

During an eleven day period between October 22nd and November 14th, Campbell called Parks fifteen times from Louisville and twice from Detroit. Eleven of the calls were from phone booths in Louisville and one from a pay phone. All twelve calls were paid by Campbell in cash. Campbell received two telephone calls at pay telephones in Louisville from pay telephones in Detroit, and shortly thereafter calls were made to Hoffa's hotel room in Nashville.

The Government offered no proof as to the subject matter of the telephone calls. Campbell testified that they related to Union or family matters.

The jurors were not concluded by Campbell's explanation of the telephone calls. The jury had the right to consider the evidence as to the telephone calls along with the other evidence in the case and in connection with the efforts at the time of Parks and Walker, a Nashville police officer, to approach the juror Gratin Fields. They could consider the timing and number of the telephone calls, and the fact that some were made from and to pay booths, and most of them paid for in cash.

The evidence was circumstantial. The jury could infer that Campbell was in constant communication with the conspirator Parks and that Campbell reported thereon to Hoffa by way of Detroit.

Once a conspiracy has been established, only slight evidence is necessary to connect a defendant with it. *Poliafico* v. *United States*, 237 F.2d 97, 104 (C.A. 6, 1956), *cert. denied* 352 U.S. 1025; *United States* v. *Gosser*, 339 F.2d 102, 110 (C.A. 6, 1964).

[fol. 241] Other Claimed Errors

1 Alleged Limitation of Cross-Examination of Partin.

Although Partin was cross-examined for a period beginning February 6, 1964 and running through February 12, 1964, the defendants claim that their right of cross-examination was unduly restricted. The record does not sustain this contention.

The defense asserts that the Court did not allow them to cross-examine Partin concerning the recordings and transcripts of Partin's two telephone conversations with Hoffa. These were made available to the defense before Hoffa took the witness stand. They were offered in evidence by the defense, read to the jury and commented on in oral argument.

At no time after the recordings were made available to the defense did they ask permission of the Court to cross-examine Partin relative thereto, although Partin "was present and produced in the court room as late as the final day of testimony before the jury". (Finding Trial Court app. 340 (a)).

The Court did not err in restricting the cross-examination of Partin relative to the alleged threat of Hoffa to kill Attorney General Kennedy. This was a collateral matter, the disclosure of which to the jury would in our judgment have been extremely prejudicial to the defendants. They did not all agree to waive any prejudice which might have resulted from the disclosure. (App. 1548(a)). Had Hoffa been permitted to conduct such an inquiry, he would then have been entitled to offer testimony to refute or rebut the testimony of Partin which he had thus elicited, and the trial would have been diverted into a determination of immaterial and extraneous matters. The Court did permit cross-examination of Partin with respect to any promises or threats which would influence his testimony, and allowed a wide latitude with respect to many other matters. It was within the discretion of the Court to limit cross-examination relative to collateral matters. *Lohman* v. *United States,* 266 F.2d 3 (C.A. 6, 1959) *cert. denied* 361U.S. 923.

[fol. 242] We find no error in the admission of the Government's rebuttal testimony concerning Partin's reputation for truth and veracity.

2 Privilege of Mrs. Partin

The defense called Mrs. Partin as a witness for the purpose of proving "that Partin's numerous encounters with

the law and domestic troubles arose from and were created by drug addiction and association and residence with strange women".

After Mrs. Partin was sworn as a witness, she asked the Court:

> "I would either like to retain counsel or either ask you if I have the privilege . . . to not testify. Can I use my privilege?"

The Court excused the jury and appointed a lawyer to represent her. The lawyer reported to the Court that she did not want to testify. In answer to a question by the Court as to whether she was claiming her privilege, she answered, "I do not want to testify".

The Court did not require her to testify. We think her testimony was privileged; E.g. *Hawkins* v. *United States,* 358 U.S. 74 (1958); *Brunner* v. *United States,* 168 F.2d 281 (C.A. 6, 1948); that the privilege was sufficiently invoked; that Partin did not consent to the admission of his wife's testimony; and that the proffered testimony in any event was not admissible. Partin had not been convicted of any narcotics offense nor of adultery. There was no evidence that Partin was under the influence of narcotics when he reported to Sheridan or when he testified as a witness. The calling of Mrs. Partin as a witness was an attempt to impeach Partin by testimony upon collateral matters. The proffered testimony was inadmissible. *Foster* v. *United States,* 282 F.2d 222 (C.A. 10, 1960).

[fol. 243]

3 Destruction of F.B.I. Interview Notes

In connection with the cross-examination of the witnesses Walker and Fields, the Government pursuant to the requirements of 18 U.S.C. § 3500 furnished to the defense written statements signed by these witnesses and F.B.I. reports relating to interviews with them. When the defense learned that the original notes from which the statements and re-

ports had been prepared were destroyed, they moved to strike the testimony of the witnesses, or in the alternative for a mistrial. The District Court conducted a hearing on the motion.

The evidence disclosed that Walker was interviewed twice by F.B.I. Agent Sheets. In the first interview Sheets took notes, a portion of which were in long hand, and some in shorthand. These notes were not read to the witness, nor approved by him. Sheets prepared a typewritten statement from the notes, which the witness read, approved and signed. Sheets also prepared a report of the interview. He testified that both the statement and the report contained substantially the same information as his notes. After the typewritten statement was approved and signed and the report prepared, he destroyed the notes in accordance with the regular practice of his department.

Fields was interviewed by Agents Sheets and Steele. Sheets took notes of the interview. There was no evidence that Fields ever read or approved the handwritten notes. Sheets prepared a typewritten statement and report from his notes. Fields read, approved and corrected the typed statement where indicated, and signed it. The notes were then destroyed.

At the conclusion of the hearing the District Court ruled that only the signed statements and reports were producible and denied the alternative motions.

The defense had available for impeachment purposes the signed typed statements of both witnesses and the F.B.I. reports. The typed statements and reports embodied the substance of the interview notes. The agent was not re- [fol. 244] quired to preserve his longhand or shorthand notes or other memoranda from which he prepared the witnesses' typewritten statements. There is nothing to suggest bad faith in what the agent did. *Campbell* v. *United States,* 373 U.S. 487 (1963); *Campbell* v. *United States,* 365 U.S. 85 (1961); *United States* v. *Aviles,* 337 F.2d 552 (C.A. 2, 1964); *United States* v. *Spatuzza,* 331 F.2d 214 (C.A. 7, 1964) *cert. denied* 379 U.S. 829; *Ogden* v. *United States,* 323 F.2d 818 (C.A. 9, 1963) *cert. denied* 376 U.S. 973.

The question was one of fact for determination by the District Judge, whose decision we may not disturb unless clearly erroneous. *Gosser* v. *United States,* 339 F.2d 102, 113 (C.A. 6, 1964). In our opinion the ruling was supported by substantial evidence and is not clearly erroneous.

4 The Sheridan Cryptic Notes

Walter J. Sheridan was a Special Consultant to the Attorney General. He was not a lawyer. He was called as a witness by the defense in connection with their motion to suppress the testimony of Partin, which motion was heard in the absence of the jury.

Sheridan testified among other things that Partin reported to him on the jury tampering activities during the Test-Fleet trial. He made "cryptic" notes of these conversations. Six or seven months later Sheridan reduced some of the material in the notes to typewritten form. Pursuant to request of the defense, the cryptic notes and typewritten sheets were turned over to the court for *in camera* inspection. The Court made an inspection, and denied the defense motion to produce them. We have also examined the notes and sheets and agree that they were not producible.

This material was not discloseable to the defense under 18 U.S.C. § 3500. It did not purport to be a substantial verbatim record of conversations between Partin and Sheridan. It was never examined, approved nor adopted by Partin. The District Court was correct in ruling from the [fol. 245] evidence that this did not constitute a statement of Partin within the meaning of 18 U.S.C. § 3500.

It could not be used as a statement of Sheridan because in that particular proceeding he was testifying as a defense witness. The Government attempted to call Sheridan as a rebuttal witness but the Court sustained defense objections thereto.

The claim of the Appellants is that apart from the Jencks Act (18 U.S.C. § 3500), they were entitled to inspect Government records to ascertain whether Government evidence was "tainted" by leads obtained from illegal activities.

Congress passed 18 U.S.C. § 3500 because the decision of the Supreme Court in *Jencks* v. *United States,* 353 U.S. 657 (1957) was being extended into areas far more sweeping than *Jencks* and under circumstances far removed from that case. In construing the statute the Supreme Court held that the statements must be producible under the Act or they cannot be produced at all. *Palermo* v. *United States,* 360 U.S. 343 (1959).

But we have held that the Government's evidence was not tainted; that Partin was not placed in the midst of the defense by the Government but by agreement with Hoffa; and that there was no interference in the attorney-client relationship.

The Government did produce its informant, who was alleged to have been engaged in illegal activities and was cross-examined at great length. It also offered to produce the testimony of Walter Sheridan.

It was not necessary to produce Government reports to establish that no evidence had been obtained by illegal telephone interception. The recordings were by permission of the sender, and were lawful. They did not violate 47 U.S.C. § 605. The Government could have introduced them in evidence. *Rathbun* v. *United States,* 355 U.S. 107 (1957); *Lindsey* v. *United States,* 332 F.2d 688 (C.A. 9, 1964).

The defense must not have thought that the recordings were damaging because they offered them in evidence. The [fol. 246] only material evidence which they disclosed was the arrangements with Hoffa for Partin's proposed trip to Nashville.

Both Partin and Daniels, who listened in on two telephone conversations, reported the substance thereof to the Government. The Court found that the Government's evidence was obtained from independent sources rather than from the recordings.

In our judgment the rulings of the District Court were supported by substantial evidence and were not clearly erroneous. *Gosser* v. *United States, supra.*

5 The Petit Jury

On the first day of the trial Appellants filed motions to strike the array of two hundred prospective petit jurors. At that time seventy-six jurors were sitting in the court room awaiting *voir dire* examination. The Court heard extensive oral arguments and denied the motions without taking testimony. The grounds for the ruling were that the motions had not been timely filed and that no showing was made which entitled Appellants to a hearing.

Rule 12(b)(2) of the Federal Rules of Criminal Procedure required motions of this type to be filed before trial. *Shotwell Mfg. Co.* v. *United States,* 371 U.S. 341 (1963); *Frazier* v. *United States,* 335 U.S. 497 (1948).

The purpose of the rule undoubtedly was to prevent the diversion of a trial by protracted excursions into preliminary matters at a time when the witnesses and jurors were kept waiting in the courtroom or its environs.

Appellants urge that the rule ought not to be invoked here because the Court did not make the list of prospective petit jurors available to them until the morning of the trial, and they had no opportunity to investigate the jurors.

The Court found, however, that Appellants knew from and after December 28, 1963 that the case was assigned for trial on January 20, 1964; that a preliminary hearing was held on January 18, 1964, at which all counsel were present [fol. 247] and no mention was made then of any intention to challenge the array; that the regular jury panel had been drawn prior to the commencement of the November 1963 term of court; that on December 28, 1963 the Court had ordered the drawing of two hundred additional names from the jury box for prospective jury service; and that the names of the additional jurors were drawn at a public drawing on January 9, 1964, at which at least one of counsel for Appellants was present.

At the drawing, however, on orders from the Court as a precautionary measure, only the last name and first initial of each prospective juror were announced. The full names, addresses and occupations of the jurors were not made

available to counsel for the Government or for the defense until the morning of the trial.

Two defense counsel had previously inquired of the Clerk or Jury Commissioner as to the method used in procuring the names of the jurors. One of the counsel reported to the Court the Clerk's statement that he had done the best he could to try to get a cross-section of the community.

Information was available to counsel by inquiry of the Clerk or Jury Commissioner as to the manner in which the November 1963 Term panel and previous panels were drawn, and the names, residences and occupations of the jurors.

In view of the prior availability of all this information as to the system used, it was not necessary for Appellants to wait until the opening day of the trial to file their motions to strike the array. Appellants did not need the names, addresses and occupations of the January 9th panel in order to prepare and file their motions to strike the array.

In their arguments to the Court Appellants made no proffer to show by specific evidence that cognizable groups in the community had been systematically excluded or that the jury box did not in fact contain names of jurors representing a fair cross-section of the community.

As we pointed out in connection with the issue concerning the selection of the grand jury, the burden was upon Appellants to offer distinct evidence in support of their [fol. 248] motions. *Glasser* v. *United States,* 315 U.S. 60 (1942). Appellants did not offer such evidence.

The nub of Appellants' argument to the Court was that the number of Negroes and blue collar workers in the jury box was disproportionate to their total representation in the community. But it is settled that Appellants were not constitutionally entitled to a proportionate number of any particular group on the jury roll or panel. *Swain* v. *Alabama,* 380 U.S. 202.

The District Court was correct in denying the motions.

6 Misconduct of Jury and U. S. Marshals

Misconduct of jury and U.S. Marshals was asserted in motions for a new trial which were accompanied by affidavits. The alleged misconduct of the jurors was that considerable whiskey and drinking-equipment was sent to the hotel floor on which the jurors stayed; that on one occasion jurors were seen with drinks in their hands; that one unidentified person who was thought to be a juror, came into the hotel in an intoxicated condition; and that in the hotel jurors had mentioned the name of Hoffa. Counter affidavits were filed by the foreman and other jurors and by the United States Marshals denying any misconduct.

The affidavits submitted by Appellants were insufficient to warrant a hearing. The Court in his memorandum opinion commented:

> "Not a single affiant purports to have any personal knowledge of the activities or behavior of a single juror in respect to the use of beverages at any time, nor does any affidavit identify a single juror or a single officer as having done anything wrong in this respect."

[fol. 249] The Court had the opportunity of observing the jury during the course of the long trial. He stated that—

> "Each juror was both most alert and most patient throughout the trial";

that

> "each juror conducted himself or herself with the utmost decorum and utmost impartiality throughout the trial";

that

> "each juror conducted himself or herself with obvious awareness of his or her responsibility to give careful attention to each and every item of the evidence and instruction of the Court";

that

> "Not once did the Court observe a lack of attention on the part of a single juror".

The Court frequently observed the jurors leaning forward in their seats listening to the proceedings.

Misconduct alleged of the Marshals which did not take place in the presence of the jury need not be considered.

With respect to remarks alleged to have been made by alternate juror Curbow, we think the Court properly handled the matter by repeating his instruction to the jury that they should not discuss the case among themselves. This alternate juror was excused when the regular panel was sent to deliberate.

7 The Prosecutor's Closing Argument to the Jury

Appellants contend that the Prosecutor's closing argument to the jury constituted prejudicial error so as to require a mistrial. We do not agree.

The case had been bitterly fought. The closing argument of the Prosecutor must be considered in the light of the [fol. 250] previous arguments of defense counsel in order to determine whether there was provocation for what the Prosecutor said.

The Government's case was termed by one of the defense counsel in his argument as "a foul, filthy frame", a "diabolical plot" and "the Department of Justice [was] its mother". Another defense counsel said:

> "At times you wonder in the course of this trial with these Washington prosecutors was Naziism really licked?"

He continued:

> "The outlaws in this whole case are the Washington prosecutors, engineered by Robert Kennedy and Mr. Sheridan."

These and other arguments made by defense counsel attacked the integrity of Government counsel. The Prosecutor had the right to make a vigorous response.

It was not improper for the Prosecutor to state his belief in the guilt of the Appellants where, as here, it was based upon the evidence in the case, *Henderson* v. *United States*, 218 F.2d 14 (C.A. 6, 1955) *cert. denied* 349 U.S. 920, and his integrity had been questioned. Nor was it wrong to argue that a person who had been proven guilty ought not to be acquitted.

We find no prejudice in the Prosecutor's reference to Appellant King having taken the Fifth Amendment at the Test-Fleet trial. King, in his direct testimony, indicated that he did resort to his privilege not to testify. He thus injected the subject into the case. In any event, the Court instructed the jury to disregard it.

8 The Trial Court's Instructions

(a) Contentions and Theories

At the request of the Court the Government and each Appellant except Campbell submitted written requests for in- [fol. 251] structions to the jury which embodied their respective contentions and theories.

The Court instructed the jury as to Appellants' theories and contentions in the exact language contained in their requests to charge. With respect to Campbell, who submitted no request to charge, the Court instructed the jury that his position was that he was not guilty of the offense of which he had been charged.

The Court eliminated a substantial portion of the Government's requests and gave the balance in the language requested. The Court's instructions with respect to the Government's contentions and theories are contained in seven pages of the printed appendix, and as to the Appellants' on six pages.

All counsel had been advised on the previous day as to the requests to charge which the Court would give to the jury.

Appellants admit the propriety of the Court's instructions to the jury as to their own contentions and theories, but

they think it was improper for the Court to instruct as to the Government's. They state:

> "But we know of no authority for the court to present the theory of the Government as its theory is embodied in the indictment to which the Government must be held."

It is also true that the defendants' theories are embodied in their pleas of not guilty, but that does not mean that they are not entitled to have their theories fully presented to the jury where there is foundation therefor in the evidence.

In our opinion it was the function of the Court to instruct the jury as to the theories of both prosecution and defense. See *Perez* v. *United States,* 297 F.2d 12 (C.A. 5, 1961); *Bernstein* v. *United States,* 234 F.2d 475 (C.A. 5, 1956) *cert. denied* 352 U.S. 915; *Marson* v. *United States,* 203 F.2d 904 (C.A. 6, 1953).

Appellants state:

> "Not being apprized that the Court would go into such an elaborate summary of the evidence, the defen- [fol. 252] dants were deprived of a fair charge by the Court on that issue only."

As we have previously stated, the record shows that Appellants were apprised on the day before that the Government's requested charges with respect to its theories would be given by the Court. Six pages of the appendix contain Appellants' requests verbatim. Appellants were represented by able and experienced counsel. If they thought at the time that their theories and contentions should be treated more extensively by the Court, the way was wide open for them to enlarge their requests, either on the day previous or at the time the requests were actually given. They had full opportunity to make the most of presenting their theories. If their requests were inadequate to present their theories, the fault certainly can not be charged to the Court.

(b) Reasonable Doubt

The Court properly instructed the jury on reasonable doubt. It was not necessary for him to give a charge (Request U) which related the doubt to a particular witness. The Court gave proper instructions on the credibility of witnesses.

(c) Ratification

Nor was the District Court required to give the requested instructions on ratification by Hoffa of the endeavors to influence the jury, as there was no evidence which would justify giving them. Hoffa did not admit that he knew of the endeavors nor that they were agreeable with him. He denied all of the statements attributed to him by Partin. If the Government's evidence was to be believed, he was an active participant, and not a mere ratifier.

(d) Informer Cautionary Instruction

Appellants contend that it was prejudicial error for the Court to refuse to give a specific cautionary instruction [fol. 253] with respect to informers. They claim that Partin was a paid informer and that the Court should have instructed the jury that his testimony was to be received with caution.

There was no evidence that Partin received money from the Government except for expenses which he incurred some time after the trial. Whether a special cautionary instruction should have been given on informers was within the discretion of the Court, to be exercised in accordance with the particular facts and circumstances of each case. *Siglar* v. *United States,* 208 F. 2d 865 (C.A. 5, 1954) *cert. denied* 347 U.S. 991.

The Court did give a cautionary instruction although not in the language requested, and it did not mention informers specifically. It was a comprehensive charge on credibility, which covered all of the elements to be considered in weighing the testimony of the witnesses and parties in this case. He told the jury to—

"• • scrutinize carefully the testimony given and the circumstances under which each witness has testified and every matter in evidence which tends to indicate whether the witness is worthy of belief. Consider each witness' intelligence, his motives, state of mind, his demeanor and manner while on the witness stand. Consider also any relation each witness may bear to either side of the case; the manner in which each witness might be affected by the verdict; and the extent to which, if at all, each witness is either supported or contradicted by other evidence."

He also instructed the jury on impeachment, false testimony, character evidence, conflicting testimony, perjurers, felons and self interest!

The Court was not required to give the instruction in the exact language requested by the defense. While it would have been better practice for the Court to have given a separate instruction with particular reference to the testimony of an informer, the failure to do so was not reversible error. *United States* v. *Ball,* 344 F.2d 925 (C.A. 6, 1965).

[fol. 254] We do not consider this as a case where the testimony of the informer lacked corroboration.

(e) Presumption as to Witnesses Telling the Truth

The Court instructed the jury that there was a presumption that each witness, including the parties, has sworn to the truth and it was the duty of the jury to reconcile conflicting statements if they could, but if they could not, they were the exclusive judges of the credibility of witnesses and the weight to be given to their testimony. The Court instructed the jury that the presumption was rebuttable and may be outweighed by the manner in which the witness testified, by the character of the testimony given or by contradictory evidence. Taking the instruction as to presumption in its context with the entire instruction on credibility, we do not see how it could prejudice the Appellants.

(f) The Cautionary Instruction on Accomplice Testimony

The instruction given was as follows:

> "Should you find from the evidence in this case that any witness was an accomplice, you should keep in mind that such testimony is to be received with caution and weighed with care. An accomplice is one who unites with another person in the commission of a crime, voluntarily and with a common intent."

An instruction on accomplices had been requested by counsel for Appellant Parks. The Court did not give it in the form requested because it related to the witnesses, Walker and Fields. There was no evidence that Fields was an accomplice. There was also a question whether the witness, Oscar Pitts, was an accomplice. It was better for the Court under the circumstances of this case to give the instruction on accomplices in general terms rather than to relate it to the testimony of any particular witness. There [fol. 255] was nothing in this instruction which related to the defendants as accomplices. In our opinion the instruction was not erroneous.

(g) Presumption of Innocence

We see nothing objectionable in the Court's instruction on the presumption of innocence. Appellants claim it should have gone further than it did, but they made no objection at the time and therefore cannot complain. Rule 30, Fed.R.Crim.P.

We do not think the charge of the Court was misleading or confusing as Appellants claim. The fact that the jury acquitted Hoffa and the defendants Dorfman and Tweel on Count IV of the indictment would seem to indicate a careful consideration of the evidence and an intelligent application of the Court's charge.

Upon consideration of the record as a whole, we find no error which affected the substantial rights of the Appellants. Rule 52, Fed.R.Crim.P.

Affirmed.

[fol. 256]

IN THE UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

No. 15,876

UNITED STATES OF AMERICA, Plaintiff-Appellee,

vs.

JAMES R. HOFFA, Defendant-Appellant.

Before: Weick, Chief Judge, Miller and Cecil, Circuit Judges.

JUDGMENT—Filed July 29, 1965

Appeal from the United States District Court for the Eastern District of Tennessee

This Cause came on to be heard on the record from the United States District Court for the Eastern District of Tennessee and was argued by counsel.

On Consideration Whereof, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be and the same is hereby affirmed.

No costs awarded. Rule 23(4).

Entered by order of the Court.

Carl W. Reuss, Clerk.

[File endorsement omitted]

[fol. 257]

IN THE UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

No. 15,877

UNITED STATES OF AMERICA, Plaintiff-Appellee,

vs.

THOMAS EWING PARKS, Defendant-Appellant.

Before: Weick, Chief Judge, Miller and Cecil, Circuit Judges.

JUDGMENT—Filed July 29, 1965

Appeal from the United States District Court for the Eastern District of Tennessee

This Cause came on to be heard on the record from the United States District Court for the Eastern District of Tennessee and was argued by counsel.

On Consideration Whereof, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be and the same is hereby affirmed.

No costs awarded. Rule 23(4).

Entered by order of the Court.

Carl W. Reuss, Clerk.

[File endorsement omitted]

[fol. 258]

IN THE UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

No. 15,878

UNITED STATES OF AMERICA, Plaintiff-Appellee,

vs.

LARRY CAMPBELL, Defendant-Appellant.

Before: Weick, Chief Judge, Miller and Cecil, Circuit Judges.

JUDGMENT—Filed July 29, 1965

Appeal from the United States District Court for the Eastern District of Tennessee.

This Cause came on to be heard on the record from the United States District Court for the Eastern District of Tennessee and was argued by counsel.

On Consideration Whereof, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be and the same is hereby affirmed.

No costs awarded. Rule 23(4).

Entered by order of the Court.

Carl W. Reuss, Clerk.

[File endorsement omitted]

[fol. 259]

IN THE UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

No. 15,879

UNITED STATES OF AMERICA, Plaintiff-Appellee,

vs.

EWING KING, Defendant-Appellant.

Before: Weick, Chief Judge, Miller and Cecil, Circuit Judges.

JUDGMENT—Filed July 29, 1965

Appeal from the United States District Court for the Eastern District of Tennessee.

This Cause came on to be heard on the record from the United States District Court for the Eastern District of Tennessee and was argued by counsel.

On Consideration Whereof, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be and the same is hereby affirmed.

No costs awarded. Rule 23(4).

Entered by order of the Court.

Carl W. Reuss, Clerk.

[File endorsement omitted]

[fol. 260]

IN THE UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

No. 15,876
No. 15,877
No. 15,878
No. 15,879

[Titles omitted]

Before Weick, Chief Judge, Miller and Cecil, Circuit Judges.

ORDER DENYING REHEARING—Filed October 7, 1965

Upon consideration, it is Ordered that the motion of defendants-appellants to defer the Court's ruling on their petition for rehearing be and the same is hereby denied.

Upon consideration of the defendants-appellants' peti-
[fol. 261] tion for rehearing, it is Ordered that said petition be and it is hereby denied.

Entered by order of the Court.

Carl W. Reuss, Clerk.

[File endorsement omitted]

[fol. 262]

SUPREME COURT OF THE UNITED STATES

No. .....—October Term, 1965

JAMES R. HOFFA, Petitioner,

vs.

UNITED STATES.

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI—October 18, 1965

Upon Consideration of the application of counsel for petitioner,

It Is Ordered that the time for filing a petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including December 6, 1965.

Potter Stewart, Associate Justice of the Supreme Court of the United States.

Dated this 18th day of October, 1965.

[fol. 263]

SUPREME COURT OF THE UNITED STATES

No. .....—October Term, 1965

THOMAS EWING PARKS, Petitioner,

vs.

UNITED STATES.

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI—October 19, 1965

Upon Consideration of the application of counsel for petitioner,

It Is Ordered that the time for filing a petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including December 6, 1965.

Potter Stewart, Associate Justice of the Supreme Court of the United States.

Dated this 19th day of October, 1965.

[fol. 264]

SUPREME COURT OF THE UNITED STATES

No. .....—October Term, 1965

LARRY CAMPBELL, Petitioner,

vs.

UNITED STATES.

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI—October 19, 1965

Upon Consideration of the application of counsel for petitioner,

It Is Ordered that the time for filing a petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including December 6, 1965.

Potter Stewart, Associate Justice of the Supreme Court of the United States.

Dated this 19th day of October, 1965.

[fol. 265]

SUPREME COURT OF THE UNITED STATES

No. .....—October Term, 1965

EWING KING, Petitioner,

vs.

UNITED STATES.

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI—October 19, 1965

Upon Consideration of the application of counsel for petitioner,

It Is Ordered that the time for filing a petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including December 6, 1965.

Potter Stewart, Associate Justice of the Supreme Court of the United States.

Dated this 19th day of October, 1965.

[fol. 266]

SUPREME COURT OF THE UNITED STATES

No. 794—October Term, 1965

JAMES R. HOFFA, Petitioner,

v.

UNITED STATES.

ORDER ALLOWING CERTIORARI—January 31, 1966

The petition herein for a writ of certiorari to the United States Court of Appeals for the Sixth Circuit is granted limited to the following question:

"Whether evidence obtained by the Government by means of deceptively placing a secret informer in the quarters and councils of a defendant during one criminal trial so violates the defendant's Fourth, Fifth and Sixth Amendment rights that suppression of such evidence is required in a subsequent trial of the same defendant on a different charge."

The case is consolidated with Nos. 795, 796 and 797 and a total of three hours is allotted for oral argument.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice White and Mr. Justice Fortas took no part in the consideration or decision of this petition.

[fol. 267]

SUPREME COURT OF THE UNITED STATES

No. 795—October Term, 1965

THOMAS EWING PARKS, Petitioner,

v.

UNITED STATES.

ORDER ALLOWING CERTIORARI—January 31, 1966

The petition herein for a writ of certiorari to the United States Court of Appeals for the Sixth Circuit is granted limited to the following question:

"Whether evidence obtained by the Government by means of deceptively placing a secret informer in the quarters and councils of a defendant during one criminal trial so violates the defendant's Fourth, Fifth and Sixth Amendment rights that suppression of such evidence is required in a subsequent trial of the same defendant on a different charge."

The case is consolidated with Nos. 794, 796 and 797 and a total of three hours is allotted for oral argument.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice White and Mr. Justice Fortas took no part in the consideration or decision of this petition.

[fol. 268]

SUPREME COURT OF THE UNITED STATES

No. 796—October Term, 1965

LARRY CAMPBELL, Petitioner,

v.

UNITED STATES.

ORDER ALLOWING CERTIORARI—January 31, 1966

The petition herein for a writ of certiorari to the United States Court of Appeals for the Sixth Circuit is granted limited to the following question:

"Whether evidence obtained by the Government by means of deceptively placing a secret informer in the quarters and councils of a defendant during one criminal trial so violates the defendant's Fourth, Fifth and Sixth Amendment rights that suppression of such evidence is required in a subsequent trial of the same defendant on a different charge."

The case is consolidated with Nos. 794, 795 and 797 and a total of three hours is allotted for oral argument.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice White and Mr. Justice Fortas took no part in the consideration or decision of this petition.

[fol. 269]

SUPREME COURT OF THE UNITED STATES

No. 797—October Term, 1965

EWING KING, Petitioner,

v.

UNITED STATES.

ORDER ALLOWING CERTIORARI—January 31, 1966

The petition herein for a writ of certiorari to the United States Court of Appeals for the Sixth Circuit is granted limited to the following question:

"Whether evidence obtained by the Government by means of deceptively placing a secret informer in the quarters and councils of a defendant during one criminal trial so violates the defendant's Fourth, Fifth and Sixth Amendment rights that suppression of such evidence is required in a subsequent trial of the same defendant on a different charge."

The case is consolidated with Nos. 794, 795 and 796 and a total of three hours is allotted for oral argument.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice White and Mr. Justice Fortas took no part in the consideration or decision of this petition.

TRANSCRIPT OF RECORD

VOLUME II

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1963

No. 32

JAMES R. HOFFA, PETITIONER,

vs.

UNITED STATES.

No. 33

THOMAS EWING PARKS, PETITIONER,

vs.

UNITED STATES.

No. 34

LARRY CAMPBELL, PETITIONER,

vs.

UNITED STATES.

No. 35

EWING KING, PETITIONER,

vs.

UNITED STATES.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITIONS FOR CERTIORARI FILED JANUARY 6, 1964
CERTIORARI GRANTED MARCH 16, 1964

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 32

JAMES R. HOFFA, PETITIONER,

vs.

UNITED STATES.

No. 33

THOMAS EWING PARKS, PETITIONER,

vs.

UNITED STATES.

No. 34

LARRY CAMPBELL, PETITIONER,

vs.

UNITED STATES.

No. 35

EWING KING, PETITIONER,

vs.

UNITED STATES.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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[fol. A]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION
No. 11,989

UNITED STATES OF AMERICA, Plaintiff,

vs.

JAMES R. HOFFA, ET AL., Defendants.

Transcript of Proceedings—January 27, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge.

[File endorsement omitted]

* * * * * * *

[fol. 1450] ANDREW H. MIZELL, a witness called at the instance of the United States of America, being first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Reddy:

Q. I will ask you to state your name and address.
A. Andrew H. Mizell; Nashville, Tennessee.
Q. And what is your occupation, Mr. Mizell?
[fol. 1451] A. I am clerk of the United States District Court for the Middle District of Tennessee.
Q. And how long have you served in that capacity?
A. Approximately three years.

Q. I will ask you, Mr. Mizell, whether as clerk of the court you have custody of the records of this court for the Middle District?

A. I do, sir.

Q. Now, I will ask you to state whether or not the records of your office for the Middle District disclose case No. 13,241 as having been filed over there at some time?

A. They do, sir.

Q. When was it filed, Mr. Mizell?

A. It was filed on May 18, 1962.

Q. And what was the style of that case?

A. United States of America versus James R. Hoffa and Commercial Carriers, Inc.

Q. Do you have what is known as terms of court in the Middle District?

A. Yes, sir, we do.

Q. And what are they, sir?

A. There is an October and a March term.

Q. You have a term in March and a term in October of each year.

A. That is correct, sir.

[fol. 1452] Q. Have you, at the request of my office and myself, brought the records of your office over here with you in connection with Case 13,241?

A. I have, sir.

Q. Those are the original court records that you have.

A. They are.

Q. And what do they consist of, Mr. Mizell, briefly?

A. Well, they consist of the docket sheets and all orders pertaining to the trial No. 13,241.

Q. I see. Now, what was the style of that case, the name of it?

A. The name of it was United States of America versus James R. Hoffa and Commercial Carriers, Inc.

Q. And will you refer to your records and tell the Court and jury what term of court and year that the case reached trial.

A. October term, 1962.

Q. October term, 1962?

A. That is correct, sir.

Q. All right, sir. I will ask you to refer to your records there and state whether or not the name of James C. Tippens, Mrs. James Paschal and Gratin Fields appear in the record as jurors who were summoned and qualified.

Mr. Schiffer: Object, Your Honor, a leading question, [fol. 1453] the names appear.

The Court: Sustain the objection.

By Mr. Reddy:

Q. Were you in court when the jury was impaneled, Mr. Mizell?

A. I was.

Q. The day it was impaneled?

A. (Witness moves head up and down.)

Q. When was that?

A. It was—

Q. (Interposing) The date?

A. I want to be sure that I understand your question. The original three panels is what you are asking of or the panel that tried it?

Q. The panel that tried the case.

A. Yes, sir, I was.

Q. And with reference to that date, when did that take place?

A. It was impaneled on October 25th, 1962.

Q. Did it start on October 25th, 1962, October 25th?

A. That trial actually started on October 23rd, 1962.

Q. And was that the date that the jury was impaneled, the commencement of the impaneling?

A. Let me correct myself a little. We began the selection of a jury on October 23rd and it was completed on [fol. 1454] October 25th.

Q. I see. Now, did you call the jurors around yourself on October 23rd?

A. I did, sir.

Q. I will ask you whether or not juror James C. Tippens was called around?

A. He was.

Mr. Schiffer: Same objection, Your Honor, it's a leading question.

The Court: Leading question. Sustain the objection.

By Mr. Reddy:

Q. What jurors were called on October 23rd then, Mr. Mizell?

A. Well, we refer to them as Jury No. 1, 2 and 3. Our courts, each one of them, have three.

Mr. Silets: May it please the Court, the witness apparently is refreshing his recollection from a document not in evidence or offered for the purpose of refreshing his recollection. If the government seeks to offer the document—

Mr. Reddy: (Interposing) We are not seeking to offer it. He has a right to refer to the records to refresh his memory, may it please the Court.

The Court: Overrule the objection and proceed.

By Mr. Reddy:

Q. Can you tell us what jurors were called around into the [fol. 1455] box on October 23rd?

A. Yes, sir, Jury No. 1 was the first jury called.

Q. All right. Now, do you have a record of the jurors on Jury No. 1?

A. I do, sir.

Q. I will ask you to look at it. Have you looked at it?

A. Yes, sir.

Q. Now, state to the Court whether James C. Tippens was on that Jury No. 1.

Mr. Schiffer: Same objection.

The Court: Overruled.

A. He was.

Q. Now, do you have a record of the names of all of the jurors who were called and sworn to try case No. 13,241?

A. I do, sir.

Q. Including the alternates?

A. I do.

Q. Do you have that record before you?

A. Yes, I do.

Q. All right, sir. Will you refer to it?

A. Yes, sir.

Q. Now, tell the Court and jury the names of the jurors who were sworn to try this case on October 25th, 1962.

A. There were 12 and four alternates. Do you want me [fol. 1456] to read the names?

Q. Just read them right out.

A. Mrs. John D. Davis, Mrs. D. M. Harrison, Jr., E. P. Horne, Mrs. Mary Hall, Alfred R. Dalton, H. G. Blackwell, Mrs. Geneiva Rye, Mrs. Gladys Knight, Coleman E. Baird, Mrs. James Paschal, Mrs. Matthew Walker and Gratin Fields.

The following selected were alternate jurors, Eta Williams, Walter Harper, Mrs. William M. Jackson and E. B. Woodruff.

[fol. 1457] Q. All right, sir, you did not read the name Tippens, is that right, James C. Tippens?

A. No, I didn't.

Q. Do you recall what happened in that connection? That is, in regard to Mr. Tippens?

Mr. Schiffer: Objected to. It is an improper question. It is illegally framed.

Mr. Reddy: May it please the Court, if he knows of his own personal knowledge what happened. He was in the court when Mr. Tippens was called and intend to show that he was in there when—

The Court: (Interposing) Overrule the objection.

The Witness: Yes, I do.

By Mr. Reddy:

Q. Tell the Court and jury what happened in regard to Mr. Tippens.

A. Mr. Tippens' name was called and he was seated in the box on October 23rd. The jury was not completed that day and the next day, October 24, at the opening of court, the Court announced that Mr. Tippens had been excused.

Q. All right, sir. I will ask you to look at your record again, sir, and tell the Court and jury the date that the trial terminated.

A. December 23, 1962.

Q. All right, sir, I will ask you to refer to the record again and state to the Court and jury whether any other [fol. 1458] members of the jury who were sworn, the list of which you have read to the Court and jury, were excused prior to the date the trial terminated on December 23, 1962?

Mr. Schiffer: Objected to as being entirely immaterial to the issues in this case, your Honor.

Mr. Reddy: It is very material, your Honor.

The Court: Overrule the objection.

The Witness: Your question was were any other jurors excused during the course of the trial?

By Mr. Reddy:

Q. Yes, sir, before the trial terminated on December 23, 1962.

A. There were.

Q. Tell the Court and jury the names of those jurors.

A. Mrs. James Paschal and Gratin Fields. I am not sure how you pronounce the first name.

Q. All right, as to Mrs. James Paschal, what date was she excused?

A. December 6, 1962.

Q. And as to the Juror Gratin Fields, if that is the way you pronounce it, Fields, what was the date he was excused?

A. December 20, 1962.

Q. Mr. Mizell, in giving the style of the name of the case, I believe you stated the defendants were James R. Hoffa and Commercial Carriers, Inc., is that correct?

[fol. 1459] A. That's correct, sir.

Q. I will ask you to refer to your records again there and tell the Court and jury whether the case proceeded to trial as to both defendants on October 23, 1962?

A. I am afraid I didn't catch that question.

Q. I will ask you to refer to your records and tell the Court and jury whether the case proceeded to trial as to both defendants?

A. It did not.

Q. And as to which defendant did it proceed to trial?

A. Did it proceed?

Q. Yes.

A. United States of America vs. James R. Hoffa.

Q. In other words, it only went to trial as to Mr. Hoffa. Is that correct?

A. That's correct, sir.

Mr. Reddy: That is all.

Mr. Burke: No questions for Mr. Hoffa.

Mr. Branstetter: May it please the Court, we would like to reserve further cross-examination of this witness in the event that at some stage in the testimony that he has given here may have any relationship whatsoever to Campbell. So far as I see it does not. But if they seek to show it we would like to reserve cross-examination.

The Court: All right.

[fol. 1460] Mr. Reddy: I was going to ask if he was to be excused as of now and subject to call, but I think Mr. Schiffer has some cross-examination.

Mr. Schiffer: Your Honor, I have a couple of questions.

The Court: All right, Mr. Schiffer.

Cross examination.

By Mr. Schiffer:

Q. Mr. Mizell, you were present in court every day during the proceedings of that trial in Nashville, were you not?

A. With the exception of one.

Q. You were in court at the time when the jury was deliberating, were you not?

A. Yes.

Q. And it is a fact, is it not, that at the time of the discharge of that jury the majority of the jury favored the Defendant Hoffa?

A. I wouldn't know that, Mr. Schiffer.

Q. Didn't you remark about that in the courthouse?

A. No, sir, I couldn't have because—

The Court: (Interposing) When the jury was discharged?

The Witness: What was that?

By Mr. Schiffer:

Q. When the jury had been discharged?

[fol. 1461] A. No. No. No, sir.

Q. Were you in court when they reported a deadlock?

A. Yes, sir.

Q. And the Judge discharged the jury eventually, did he not?

A. Correct.

Q. And wasn't the vote 7 to 5 in favor of the Defendant Hoffa?

A. Not to my knowledge except what I saw in the newspapers.

Q. You read that in the paper?

A. I did.

Mr. Hooker: We object to that as being utterly immaterial, if your Honor please.

The Court: Sustained.

By Mr. Schiffer:

Q. Did you have any calls, pardon me, your Honor.

The Court: I sustain the objection as to what he may have read in any newspaper.

Mr. Schiffer: Yes, sir.

By Mr. Schiffer:

Q. Of your own personal knowledge did you have any information at all which was opposed to what you had read in the paper? Without telling us what was in the paper?

[fol. 1462] Mr. Hooker: We object to that as immaterial.

The Court: Sustained.

By Mr. Schiffer:

Q. Of your own knowledge, do you know the majority of jurors in that case, however, were in favor of the defendant?

Mr. Hooker: We object to that.

The Court: Is there a matter before the Court?

Mr. Hooker: We are objecting to that on the grounds it is utterly immaterial. We are not trying that case again.

The Court: Overrule the objection.

The Witness: Of my own knowledge, I know nothing whatsoever about the vote of the jury or the feelings of the jurors.

By Mr. Schiffer:

Q. I'm not speaking about the feelings of the jurors, I'm speaking about a fact.

A. No, sir, I have no personal knowledge of anything at all about it.

Q. As Clerk of the court you were not told by anybody and never discussed it with anybody in that court when the jury was discharged that they were hopelessly deadlocked, the majority being for the Defendant Hoffa?

Mr. Hooker: We object to that as being immaterial.

The Court: Sustain the objection.

Mr. Schiffer: No further questions.

[fol. 1463] Mr. Silets: Your Honor, with the right to reserve most of my cross-examination because so far there is nothing in this testimony which relates to Mr. Dorfman, I would like to ask leave to ask one question.

The Court: All right.

Cross examination.

By Mr. Silets:

Q. Mr. Mizell, the names of the jurors sworn to sit in judgment in that case in Nashville was that of public record? Was it public knowledge as to who was sitting in the jury box?

A. Oh, yes, it is a public record.

Q. And anybody would know about that. Is that right?

A. Anybody that wanted to know.

Q. That included names and addresses as well as occupations?

A. Are you speaking of after they were impaneled and were sitting on the case?

Q. Yes, sir.

A. Yes, sir.

Q. And to your knowledge was that fact published in the local newspapers?

A. To my knowledge, I don't know.

Q. You don't know personally?

A. I don't remember, no, sir.

• • • • • • •

[fol. 2954] February 4, 1964

• • • • • • •

Edward Grady Partin, a witness called at the instance of the United States of America, having first been duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Hooker:

Q. Would you state your full name, please, sir?

A. Edward Grady Partin.

Q. Where do you live, Mr. Partin?

A. Baton Rouge, Louisiana.

Q. And in what business are you engaged?

A. Secretary-Treasurer and Business Manager of Team-
[fol. 2955] sters Local No. 5.

Q. Secretary-Treasurer of what?

A. Secretary-Treasurer and Business Manager of Teamsters Local No. 5.

Q. Teamsters Local No. 5, is that the local at Baton Rouge, Louisiana?

A. Yes, sir, it is.

Q. How long have you held that position?

A. About 12 years.

Q. And is that an appointive position or is it elected by the membership?

A. Elected by the membership.

Q. Are you a full-time employee of that local of the Teamsters Union?

A. Yes, sir.

Q. And have been since when?

A. About 12 years.

Q. For about 12 years; I hand you a photograph that has just been introduced in evidence as Government's Exhibit No. 93. Excuse me, I didn't notice the jury was still looking at it. And will you state whether or not you are in that photograph?

A. Yes, sir.

Q. Do you have a pen that you can mark with an arrow pointing down to your picture so it can be identified?
[fol. 2956] A. No, sir, I don't.

Mr. Silets: Your Honor, I am going to object to the marking. Wait a minute, Mr. Partin. I am going to object to him marking that exhibit because this lends greater emphasis to one particular portion of the exhibit than any other, and the jury should consider the entire exhibit as it appears and as it was taken.

Mr. Hooker: If your Honor please, the purpose of the exhibit is to identify this man that we want to be no mistake about it.

Mr. Silets: If he can identify it, then he should do that, but to place an arrow on it this heightens, this is heightened

by the examination of the photograph and I'm going to object to it, your Honor.

The Court: Overrule the objection.

By Mr. Hooker:

Q. Did you do that?

A. Yes, sir.

Mr. Hooker: We would like now to pass the picture back to the jury, if your Honor please.

The Court: All right.

By Mr. Hooker:

Q. Mr. Partin, are you acquainted with the defendant, James R. Hoffa?

A. Yes, I am.

[fol. 2957] Q. Do you see him in the courtroom?

A. Yes, sir.

Q. Will you point him out?

A. Yes, sir.

Q. Let the record show that he identifies the defendant, James R. Hoffa. Are you acquainted with the defendant Ewing King?

A. Yes, sir.

Q. Would you please point him out?

A. Yes, sir. There, sir.

Q. Let the record show he identified or points out the Defendant Ewing King.

Are you acquainted with the Defendant Allen Dorfman?

A. Yes, sir.

Q. Where is he sitting?

A. In the back row over there.

Q. Let the record show he points out Mr. Allen Dorfman. Are you acquainted with the Defendant Nicholas J. Tweel?

A. Yes, sir.

Q. Where is he sitting?

A. Over in the corner on the end.

Q. Let the record show that he points out the Defendant Nicholas J. Tweel. How long have you known the Defendant James R. Hoffa?

[fol. 2958] A. Well, closely about since 1957.

Q. What have been your associations with him since that time?

A. Well, in various union activities and other personal matters.

Q. Have you seen him on many or few occasions?

A. Quite a few times.

Q. Have you ever had occasion to talk to him over the telephone?

A. Yes, sir.

Q. On many or few occasions?

A. A lot of times.

Q. Lots of times, have you had any occasion to see him at any meetings or conventions?

A. Yes, sir, at the convention in Miami. Southern Conference Convention, of course.

Q. Were you in Nashville at any time during the trial of the case of United States versus James R. Hoffa?

A. Yes, sir, I was.

Q. Did you have a conversation with Mr. Hoffa before coming to Nashville?

A. Yes, sir.

Q. Tell the jury about that.

Mr. Haggerty: We object to it unless the time and place is first fixed.

[fol. 2959] Mr. Hooker: All right, sir.

By Mr. Hooker:

Q. How long before you came to Nashville, Mr. Partin?

A. Several days, sir.

Q. Several days, was that in person or by telephone?

A. I talked to him by telephone first.

Q. And what was said in the telephone conversation?

Mr. Silets: We object, Mr. Hooker. May we have a date, if your Honor please.

Mr. Hooker: I understood you to say several days before you came to Nashville.

By Mr. Hooker:

Q. Can you identify it any more closely than that?

A. Well, it was no more than two or three days. I don't think. A very short time.

Q. Very short time.

Mr. Silets: Your Honor, we still don't know when he came to Nashville.

By Mr. Hooker:

Q. Do you recall when you came to Nashville?

A. October 22, around noon.

Q. Around noon, October 22, so two or three days before that you had a telephone conversation with the defendant, James R. Hoffa?

A. Yes, sir.

[fol. 2960] Q. What was said in that conversation?

A. Well, I was supposed to have met Mr. Hoffa up there and then he told me, he said, "No," said, "I will be in Nashville the weekend before the 22nd." Said, "Just come on down to Nashville."

Q. Just to come on down to Nashville?

A. Yes, sir.

Q. Now, prior to leaving Baton Rouge for Nashville, did you have any conversation with any representative of the United States Government?

A. Yes, sir, I did.

Q. Don't state what was said, but will you state who that was?

A. Mr. Frank Grimsley.

Mr. Haggerty: What is that name?

Mr. Hooker: Frank Grimsley.

By Mr. Hooker:

Q. Then were you given by the representative of the government the number, telephone number, of any agent of the United States Government in Nashville?

A. Yes, sir.

Q. And who was the person whose number you were given?

A. Walter Sheridan.

Q. Walter Sheridan; now, about what time did you arrive in Nashville on the, you said on the 22nd, I believe?

[fol. 2961] A. Yes, sir.

Q. Was it afternoon or night, morning or night?

A. It was around the middle of the day, around noon.

Q. And did you or not sometime while you were here register at the Andrew Jackson Hotel?

A. Yes, sir.

Q. What number is this? Number 94. We offer the hotel bill as Government's Exhibit 94 for identification, then I want to pass it to him.

(The hotel bill referred to above was marked Government's Exhibit No. 94, Witness Partin, for identification only.)

Q. Does that—look at that, Mr. Partin, and state whether or not that is your hotel bill for the occasion of this trip to Nashville?

A. Yes, sir, it is.

Mr. Hooker: We offer it in evidence as Government's Exhibit No. 94 and pass it to counsel, if your Honor please.

The Court: All right, I will allow it to be admitted.

(The document previously marked Government's Exhibit No. 94 for identification was received in evidence.)

[fol. 2962] Q. Now, Mr. Partin, when you got to Nashville did you see any of the defendants in this case?

A. Yes, I did.

Q. Who did you see?

A. I saw Mr. Allen Dorfman and Mr. Nicholas Tweel.

Q. Was Mr. Tweel introduced to you?

A. Sir, I don't—, do you want me to—, may I tell it as I came in or what?

Q. Yes. Where did you see him and just describe the circumstances.

A. Well, I had checked in to the hotel and I went down to the coffee shop and I was waiting on Mr. Hoffa and Mr. Dorfman and a fellow that identified himself as Anthony Quinn, at the time introduced himself as Anthony Quinn and told me that he was in the cigarette vending machine business, he had places in both New York and West Virginia. Later a one-armed fellow came in who was Mathison, I found out later.

Q. Did you later find out who Anthony Quinn actually was?

A. Yes, sir.

Q. All right. Now, sometime later that same day did you have any conversation with Mr. Hoffa?

A. Yes. I went up to Mr. Hoffa's room and I asked him did he know the fellow Anthony Quinn and he said no, he said, "No, I don't know him."

[fol. 2963] I then described him to him and told him that he was a friend of Allen Dorfman's. He said, "Oh, yes." He said, "He's up here to help me."

Q. Now, then did you have any conversation that day, the first day you were here, with the Defendant Ewing King?

A. Yes, sir. He told that they had a meeting set up on the jury that night but I didn't go to the meeting at that time.

Q. You didn't go to the meeting?

A. No, sir.

Q. Now, did you have any occasion to see the man that had been introduced to you as Anthony Quinn any further that day?

A. Yes. I was in the lobby sitting on a couch when Mr. Quinn came up. He laughed and told me his name wasn't Quinn, his name was Tweel. He told me where his room was and asked me to come up and visit him.

Q. Is that the same man that you pointed out here earlier as being Mr. Nicholas J. Tweel?

A. Yes, it is.

Q. Well, did you go up and visit him?

A. Yes, I went up and talked to him.

Q. Did you have any conversation with him?

A. Yes, sir. He told me he had received a call from Allen Dorfman.

[fol. 2964] Mr. Alexander: I object to that, whatever call he received.

Mr. Neal: This is a statement by the Defendant Tweel, if Your Honor please.

The Court: Overrule the objection.

Mr. Silets: Your Honor, it's hearsay as to the Defendant Dorfman, however, it's out of his presence.

The Court: Well, it will be overruled as to the Defendant Mr. Tweel, it will be received as to any other defendant only in accordance with the instructions that the Court has heretofore given the jury about such hearsay testimony.

Q. What did he say, Mr. Partin?

A. He said that Mr. Dorfman had called him and told him it would be a personal favor to him if he would come down to Nashville and help him set up a method to get to the jury.

COLLOQUY BETWEEN COURT AND COUNSEL RE MOTIONS

Mr. Schiffer: I object, Your Honor, I move for a mis-trial at this time insofar as my Defendant, Mr. Parks, is concerned. Now I think the reasons are all manifested to the Court as to why Mr. Parks' case should be severed from the other defendants in this trial. I so move.

The Court: Overrule the motion.

Mr. Silets: Your Honor, under the theory of the Barton versus the United States, this declaration by Mr. Tweel out of Mr. Dorfman's presence, which is so highly preju-[fol. 2965] dicial to Mr. Dorfman, is clearly error to go to the jury and we move for a mis-trial or in the alternative for a severance from Mr. Tweel and from all other defendants in this count.

Mr. Haggerty: May it please the Court, I desire to make a motion and ask that the jury be excused at this time be-

cause such a motion shouldn't be made in the presence of the jury.

The Court: All right. Well, overrule the motion made on behalf of Mr. Dorfman for a mis-trial or severance.

Ladies and gentlemen of the jury, if you will, please step out a moment, and, likewise, Mr. Partin, if you will, step out.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom, as was the witness, and the following further proceedings were had, to-wit:)

The Court: All right, Mr. Haggerty.

Mr. Haggerty: Very briefly, may it please the Court, based upon this witness' testimony it is obvious that he was in the employ and the service of the United States Government as an undercover agent. His name, he named one Frank Grimsley, an FBI man or a government man who told him to contact Walter Sheridan. It's obvious from the testimony this far that this witness was planted for the purpose of undercover work on the Defendant Hoffa, who [fol. 2966] was on trial and others who are now on trial, therefore, I make a motion to suppress his evidence on the ground it has been perpetrated by the Government and improper intrusion on the defendant's right, the Defendant Hoffa's rights, while he was on trial at Nashville.

That is my motion, Your Honor.

The Court: All right.

Mr. Hooker: Been nothing in this witness' testimony that he had any discussions or anything else with reference to the legal defense of the case, the proper defense of the case, and we submit that the motion is not well taken.

Mr. Haggerty: He was in discussion, I might tell you, with lawyers, he has had discussions with me during the trial of the case and to my knowledge discussions with others. He was constantly hanging around, I never knew for what reason. He was in the court nearly every day, if not every day, during the trial, he was at the hotel and Mr. Hoffa's suite where the lawyers conferred at night.

Mr. Neal: May it please the Court, even if what Mr.

Haggerty says be true it does not affect this case. This witness will testify as to statements made with respect to prospective jury tampering, even regardless of what might have happened in the old case the law is clear, this witness can testify, should be permitted to testify, and we cite the Court Sixth Circuit cases on this point if the Court wishes.
[fol. 2967] The Court: All right.

Mr. Neal: Would you like the cases?

The Court: All right, cite them.

Mr. Neal: United States versus Thomas, 303 F 2d 561, Sixth Circuit, 1962.

The Court: 303 F 2d what?

Mr. Neal: 303 F 2d 561, Sixth Circuit, 1962, particularly at Page 563, Your Honor. Welderman versus United States, 227 F 2d 757, 770, Sixth Circuit, 1955, vacated on other grounds 354 U. S. 931.

The law is quite clear on this, Your Honor.

Mr. Haggerty: May it please the Court, I have been taken completely by surprise by this witness. I ask before Your Honor makes a ruling I have an opportunity to check the law.

Mr. Silets: Your Honor, may it please the Court, I am at a loss to understand Mr. Neal's reasoning on this proposition for this reason, assuming that the interference of this witness is as Mr. Haggerty says, that he was—, first, he has testified so far that he is and was in fact a representative of the government, that he was given the authority to call representatives of the government prior to his going to Nashville. On that basis he then consults, confers and is at meetings with counsel for the Defendant Hoffa while Hoffa is preparing his trial in Nashville.
[fol. 2968] Now, if this in fact an illegal event then, Your Honor, the famous statement of the Supreme Court that the fruits of the poisoned tree are not any good extends here. If that was an illegal event anything that results from that illegal event is a violation of the Fourth and Fifth Amendments.

Now, I think at the very minimum we are entitled to have a hearing on a motion to suppress to determine whether what this man obtained was in fact illegally obtained and if it was obtained in the first instance from a matter which is in itself illegal, namely being present during consultation of attorneys while in fact a representative of the opposing party in the same lawsuit, the United States, that illegal event taints everything that this man touched and this Court must suppress any statement or evidence that this man would attempt to put in before this Court as a result of that event and, Your Honor, I cannot see how this Court at this time can do anything but have a hearing on a motion to suppress and I think because, as Mr. Haggerty states, this is a complete shock and surprise to all of us, any more so than if Your Honor's law clerk, consulting with Your Honor should all of a sudden turn out to be an informer or a spy for the defense, there is no difference than this situation. Here is a man who is appearing in trust and confidence, or at least with the permission of the Defendant Hoffa in a lawsuit, and it turns out to be an informer for the government sent on special [fol. 2969] assignment by Mr. Sheridan, who is not even an attorney, if that event is in fact true then he was participating with the knowledge and consent of the government in what is patently an illegal act and if as a result of that illegal act he is now going to produce in court any evidence then this is clearly the famous and fabled fruit of the poisoned tree and Your Honor must suppress this evidence. [fol. 2970] Mr. Neal: We want to go on with the trial, your Honor.

Mr. Branstetter: May it please the Court, I believe that government counsel will readily concede at this point if it properly pointed out that the matters now before the Court must proceed further from the standpoint of a hearing to determine whether or not this evidence should be suppressed. In the first place, there is a case, I do not have it immediately in front of me, where the government placed a bug or a tapping in an area where counsel was talking to

a defendant. Coplin vs. United States. Thank you, Mr. Neal. And as a result of this certain information was discovered other than the statements by the defendant.

The Court held very clearly that any evidence thusly obtained where counsel was advising with a client would have to be forever excluded or any information that was obtained that led to other evidence had to be excluded and suppressed.

We think that that case fits squarely within the situation here, if on a preceding hearing the government places an informer or a bug or a wire tap, it is worse than wire tapping, but if they did this, and they seek to use the information thusly obtained in any legal proceeding, in any court of the United States, then I misread all law if it is admissible.

[fol. 2971] The Court: All right.

Mr. Hooker: There will be no proof here—

Mr. Silets: (Interposing) Your Honor, may I just be heard on one more point?

The Court: All right.

Mr. Silets: That any evidence was illegally obtained, and I think the Court will remember when the Court retires to consider of this problem that then the burden shifts to the government that there were no leads from illegal source of evidence. They must prove that. It is their burden and I cite United States vs. Coplin, 185 F. 2d 629, for that preparation that once there is any illegally-obtained evidence then the burden shifts to the government to establish that whatever they seek to introduce was not as a direct or indirect result of the leads from that illegal or poisoned tree.

The Court: All right.

Mr. Branstetter: There is a case in the District of Columbia, I do not have the case immediately, but I think we can locate it within a matter of some 15 minutes.

Mr. Neal: The case he is talking about probably is Caldwell vs. United States, 205 Fed. 2d 879, District of Colum-

bia, 1953. The other case he referred to is Coplin vs. United States, 191 F. 2d 749, District of Columbia.

The Court: What was the first case, 205 what?

[fol. 2972] Mr. Neal: 205 F. 2d 879, 1953. Your Honor, those cases have nothing to do with a situation whereby a man reports wholesale efforts to tamper with a jury. These cases have nothing to do with the second subsequent prosecution for jury tampering. Then your Honor will see that. The principle of these two cases, your Honor, is this, that if the government puts an informer in the defendant's camp and that informer refers or relates evidence with respect to trial tactics to the government then it may be, I don't want to misrepresent to the Court, it might be, and I am not making a stand on this, but it might be that the case on trial with respect to which trial strategy was learned in this manner could not stand or conviction could not stand if that is prejudicial.

[fol. 2973] That has nothing whatever to do with the subsequent case, your Honor. Now, this witness was arranged to meet the Defendant Hoffa in Nashville pursuant to the Defendant Hoffa's telephone conversation. This man was told to report anything he learned of efforts to tamper with the jury and that alone.

This evidence is clearly admissible, your Honor. These cases, Coplin and Caldwell referred to be defense counsel have nothing to do and, your Honor, I emphasize this, they have nothing to do with the second subsequent prosecution arising out of efforts to tamper with the jury in the first prosecution.

Your Honor will see that. We insist, your Honor, that there has been delay. There has been harassment of the government here. We insist on it, respectfully, of course, we insist on going on with this trial. This matter can be brought up to the Court's attention with any other motions they make.

Mr. Schiffer: May I respectfully urge upon the Court that justice is not always as the government puts the case. That while it may be very true that Mr. Neal wants to run

very quick with a hatchet at the defendants, in the interests of the justice we now ask for sufficient time in view of this tremendous surprise of government activity again doing what they did here, violating the spirit of due process, and that in the spirit of due process these defendants are now [fol. 2974] certainly entitled to at least seek out what the law is as the government puts it and then to have a hearing on what the government now has exposed itself as doing, and I was condemned yesterday you remember, your Honor, when I raised the issue as to what the government was doing against due process, they yearned and they screamed and they protested so much, but now they put a witness on the stand who himself now testifies that before he ever left Louisiana and came to Nashville he already had had a conversation with Frank Grimsley, Grimsley had set up the plot whereby the government come to the same Walter Sheridan, the Attorney General's special investigator, and evidently after what he had done in Nashville against these defendants, he by virtue of the fact that he was a Teamster official even ingratiated himself and came in and sat with the lawyers for the defense in that case.

Now, your Honor, we ask now justice, sufficient time to understand these issues, to present the evidence, let the government follow the law and put its witnesses on for a hearing, but we first want an opportunity now to examine the entire legal proposition as posed by the government and by its own witness at this point.

We ask for sufficient time.

Mr. Silets: Your Honor, may I be heard? Last July we had hearings before Judge Gray in the Middle District of Tennessee. They were in ex stenso. Five days of hearings. [fol. 2975] At that time one of the motions made by defense counsel was a motion to dismiss the indictment on the basis that there was illegally-obtained evidence.

I can remember as if it was said a moment ago, Mr. Neal in great pain and anguish saying to Judge Gray, your Honor, there was no eavesdropping. There was no wire tap. There was no illegally-obtained evidence.

At that time Mr. Neal must have known that such a thing as what is being perpetrated on this court was in fact in existence because that is the basis that this indictment was returned upon.

Now, I suggest to the Court, is there any difference in a man putting his ear to a door and listening to a conversation than this situation where a man under false pretenses under the direction and aidence of the government comes in and listens to a conversation?

Will the Court make a decision because there is an inch or inch and a half or half inch of wooden paneling between the conversation and the listener?

I say to your Honor that not only has the government misled these defendants and have led them down the primrose path by this type of effort, but I say this man, Mr. Neal, consciously and intentionally mislead Judge Gray and these defendants when he represented in open court there was no eavesdropping.

[fol. 2976] Now, I move at this time to dismiss the indictment on the same basis as the motions that have been made in July of 1963.

[fol. 2977] Mr. Neal: In respect to the Court, let me say to the Court, your Honor, there is no illegally-obtained evidence in this case and there is no eavesdropping. Everything that this witness will testify to as things said to him were things intended that he overhear because they were said to him.

And the recent case in the Supreme Court, your Honor, I will have the case in a moment with respect to the sending of an agent in, after a bribe offer has been made, with a recording device on him, the Supreme Court held 638 that this was evidence properly received.

Lopez vs. United States. Thank you, Mr. Kossman and Mr. Silets.

Mr. Silets: I am Mr. Silets.

Mr. Neal: Thank you, Mr. Silets. Lopez vs. United States.

Mr. Branstetter: May it please the Court, I think that the Court must after thinking of Lopez vs. United States which just has been referred to, read cases before a determination is made. The Lopez case was this, and Mr. Neal knows it was this, a government agent wired for sound called a man into his office. He said, "I am a government agent. I am taking a statement down." This is correct in the Lopez case.

And then the question was whether or not the tape that [fol. 2978] the government agent known to be a government agent, working with the Treasury Department, the question was whether or not the tape could be used against a man when he had been told it was being taken down.

Now, this is the Lopez case and I represent to the Court that that is the Lopez case and the Court can read it.

The Court: All right.

Mr. Branstetter: Now, let me suggest that we might test this matter in this way, let's suppose in the Nashville case, I was not in it at that time, let's suppose Mr. Neal disguised himself to where Mr. Hoffa and nobody knows who he is and he goes into the rooms and into the conferences with lawyers and he overhears a discussion of the case in Nashville so-called Test Fleet case.

And as a result of that he obtains certain information. He is in disguise. And then he comes into another proceeding and attempts to use that information. I say that it was illegally-obtained evidence under dozens of cases and it could not be used for any purpose, not even the purpose of showing that a crime had been committed.

For example, I believe in the Benetti case where there, there were illegal wire tappings on the part of the government and they sought to introduce the evidence obtained in the illegal wire tapping in an offense other than the one for [fol. 2979] which the wire tap was made.

That is as close as we are getting here. And the Court says you cannot use that evidence for any purpose whatsoever if it is illegally-obtained evidence. It cannot be used in any court of the United States for any purpose whatsoever.

Now, if government counsel is admitting as they must admit to this Court that this was illegally-obtained evidence or illegally-obtained information, then all the cases say it is clearly inadmissible and subject to a motion to suppress.

Mr. Neal: Your Honor, we say this is not illegally-obtained evidence and we cite Lopez, 9 Law Edition, somewhere in there, your Honor, we would like to go forward.

The Court: Let's take a 15-minute recess.

(Thereupon, at two o'clock P.M. court was in recess.)

[fol. 2980]

EVIDENCE INTRODUCED ON MOTION TO SUPPRESS

The Court: All right, gentlemen. I will give the defendants a hearing on their motion to suppress at this time. What, if anything, further do you have to offer in that respect?

Mr. Silets: Your Honor, you are going to give us a hearing, is that the ruling?

The Court: Yes.

Mr. Silets: Well, then, we would like to have that witness called back to the stand, first, Your Honor.

The Court: All right.

EDWARD GRADY PARTIN, a witness called at the instance of the United States, having been previously duly sworn, was recalled and testified further as follows:

The Court: First, may I ask, is there anything that the government desires to examine this witness on further on direct examination with reference only to the motion to suppress? We will not go into the—

Mr. Hooker: (Interposing) Your Honor indulge us just a moment?

The Court: All right.

Mr. Hooker: I'd like to ask a few questions if Your Honor please.

The Court: All right.

[fol. 2981] Examination by Mr. Hooker:

Q. Mr. Partin, when Mr. —, I believe you stated that Mr. Frank Grimsley talked with you before you left Louisiana?

A. Yes, sir.

Q. Did he direct your attention to any particular information that he was interested in?

A. Yes, he did.

Q. What was that?

A. Well, he told me if I saw any evidence of jury tampering or other illegal activities to call him.

Q. To call him?

A. To call Mr. Sheridan.

Q. To call Mr. Sheridan. And what did Mr. Sheridan tell you about what he was interested in?

A. Jury tampering, he didn't mention the—

Q. (Interposing) Just the jury tampering?

A. Jury tampering, yes, sir.

Q. Now, did you undertake to get into or be present at any conversations between lawyers or anything of that sort?

A. No, sir, I didn't.

Q. The matters that you expect to relate that occurred, conversations that occurred that you will be asked about and that you will relate with the defendants, were those—, were those in connection with lawyers or outside of the presence of the lawyers?

[fol. 2982] A. Well, very little of what I had to say would be in the presence of lawyers, very little, they may occasionally be close but they wouldn't be in the direct—

Q. (Interposing) Wouldn't be in on the conversation?

A. No, sir.

Q. And would you expect to relate any conversation with any lawyers?

A. No, sir, I would not.

Mr. Hooker: Just a moment. That's all.

[fol. 2983] Q. Mr. Partin, how long have you known Mr. Frank Grimsley?

A. Oh, I couldn't be specific. I had seen him around prior to the conversation with him, I guess—

Q. (Interposing) What is the date of this conversation that you are referring to?

A. Well, I couldn't be specific on that, sir. I don't know.

Q. Well, was it in the month of September, 1962?

A. It was either in September or somewhere near there. It would be maybe a week or two difference one way or the other, I couldn't remember exactly when it was.

Q. Either the beginning of September or the end of October, is that right?

A. It would be closer give or take 30 days, I just wouldn't know exactly what date it was.

Q. It was prior to October 22, 1962, was it?

A. Yes, sir.

Q. Did you call him or did he call you?

A. No, sir, I didn't. He didn't call me, no.

Q. Well, how did you get in touch with him?

A. Well, I think this was—I am trying to think of the man's name, a Mr. Daniels.

Q. What about Mr. Daniels?

A. That got me in touch with him.

[fol. 2984] Q. Did you call Mr. Daniels?

A. I don't know whether I called him or whether I just happened to run into him.

Q. But he didn't reach you first, you reached Mr. Daniels, whether you called him or you sought him out one way or the other. Is that right?

A. I didn't understand you, please.

Q. You sought out Mr. Daniels either by calling him or bump into him or seeing him?

A. No, sir, I didn't seek him out, no, sir, as far as seeking him out.

Q. Who is Mr. Daniels?

A. He is an investigator.

Q. For whom?

A. The District Attorney's office.

Q. District Attorney's office in Baton Rouge?

A. Yes.

Q. Now, how did you happen to meet Mr. Daniels?

A. Well, I had been knowing him quite a while.

Q. All right, now, do you know him professionally or because of a matter you had with him personally?

A. Well, I knew him both ways, I would imagine.

Q. What way do you know him involving your own matters?

A. Well, he wouldn't be directly connected with the matters I am involved in here.

[fol. 2985] Q. What matters are you involved in?

Mr. Hooker: We object to that, if your Honor please.

The Witness: I don't know.

The Court: Sustain the objection.

By Mr. Silets:

Q. Tell us the circumstances of your first conversation with Mr. Daniels with respect to him putting you in touch with Mr. Grimsley?

A. Well, sir, it was a matter not related to this here at all.

Q. I don't care about that, Mr. Partin, you just tell us the circumstances of the first time you discussed this matter with Mr. Daniels.

Mr. Neal: Your Honor, we object if it is not related to this.

The Court: Sustain the objection.

Mr. Silets: Your Honor, I think it is—I'm not concerned about what matters he had with Mr. Daniels. I want to know the circumstances of his meeting with him at the first time he got into any position where this case came up.

The Court: I can't see how that would have any bearing upon the present motion before the Court.

Mr. Silets: Your Honor, I think if I may if this gentleman could be excused for a minute I will tell the Court how [fol. 2986] it has a bearing or else permit me to go on and I will show how it will be connected up.

The Court: All right, go ahead.

By Mr. Silets:

Q. Will you describe the circumstances of your first meeting with Mr. Daniels concerning this matter?

A. I would reluctantly have to say that it doesn't relate to this. It is something of a more serious matter.

Mr. Silets: Your Honor, may he be instructed to answer the question?

Mr. Hooker: We object to it.

The Court: I have a difficulty in seeing how that is material to the issue that is now before the Court.

By Mr. Silets:

Q. Let me see if I can rephase this, did you go to Mr. Daniels or did Mr. Daniels come to you on this first meeting concerning this case?

A. Mr. Daniels has never came to me concerning this case, sir.

Q. All right, you had a conversation with Mr. Daniels. Is that right?

A. Yes, sir, I did.

Q. Now, you came to him then?

A. I didn't say that, sir.

Q. Well, somebody came to one or the other, which way [fol. 2987] was it, did he come to you or did you come to him?

A. I don't remember which one made the contact. I can't remember the details.

Q. Was it relating to some other matters?

A. Some other matters not related to the court here.

Q. Now, in your course of meeting with him and you don't remember whether you came to him or he came to you, but in the course of that meeting, Mr. Hoffa's name came up?

[fol. 2988] A. Well, it was, it would still go into—in a manner not related to this, sir.

Q. Mr. Hoffa's name came up?

A. In a manner not related to this.

Q. Did Mr. Hoffa's name come up?
A. In a manner not related to this.
Q. Yes or no, Mr. Partin?
A. I can't answer you yes or no.

Mr. Silets: Your Honor, could the witness be excused?
Mr. Neal: He has said, "Yes, in a manner not related to this." I don't see how he could answer any other way.
The Court: Well, let's proceed and then I will hear the argument on it.

Mr. Silets:

Q. Mr. Hoffa's name in fact came up in this conversation with Mr. Daniels?
A. I have to repeat again in a manner not related to this.
Q. Is your answer yes, his name came up?
A. I can't answer yes or no, sir, without qualifying my answer.
Q. Well, is your answer yes, it came up in a manner not related to this, is that your answer?
[fol. 2989] A. That's correct.
Q. Now, in this conversation that you had with Mr. Daniels, did this matter or did the Test Fleet case come up in your conversation?
A. Not in the least.
Q. When, if ever, did Mr. Grimsley's name come up in the conversation?
A. Mr. Grimsley was present, sir.
Q. Mr. Grimsley was present?
A. Yes.
Q. And at that time he was an FBI agent, is that right?
A. I didn't know what his capacity was, sir.
Q. Who brought him there?
A. I wouldn't know.

Mr. Silets: Your Honor, I think that this strikes at the very heart of the motion, that we are entitled to inquire as to the basis of this meeting and as to the basis of Mr. Grimsley being present and what brought this man with Mr. Grimsley together. To permit this—

The Court: (Interposing) Well.

Mr. Neal: Your Honor, this doesn't have anything to do with the motion.

The Court: How does that have anything to do with—

[fol. 2990] Mr. Neal: (Interposing) Your Honor, the motion is based upon the fact that this man—I'd like to argue this outside of his presence because if I argue—

The Court: (Interposing) I realize that but let's proceed with your examination. Do you desire to examine him about any other phase of it?

Mr. Silets: Well, I think I must know in the first instance the circumstances of this meeting, I think.

The Court: Well, I don't want to interrupt the hearing repeatedly to argue all of these legal matters and I am unable to see at this time where what you are examining him about has any relationship to the motion.

Mr. Silets: Your Honor.

The Court: But if you will—

Mr. Silets: (Interposing) The motion to suppress is based on the fact that there is illegally-obtained evidence.

The Court: All right.

Mr. Silets: I want to establish that this man was in fact put in contact by the government for matters for his own reasons, whatever they may be, that at the time the government induced him prior to the onset of the Test Fleet case to become an informant.

The Court: Well.

Mr. Silets: I want to show the circumstances by which he was engaged, what reward he may obtain and what he [fol. 2991] was directed to do, what he in fact did.

Mr. Neal: Now, your Honor, the reward—

The Court: (Interposing) Would have nothing to do with the motion.

Mr. Neal: Rewards he obtained would be proper cross examination but it's not proper on this motion.

The Court: That has nothing to do with the motion to suppress. Sustain the objection.

By Mr. Silets:

Q. Mr. Grimsley was present?

A. Yes.

Q. Now, did you have a conversation with Mr. Grimsley at that time?

A. Well, in a small way, I would imagine.

Q. Well, did it relate to this matter?

A. I told you, sir, it did—none of the discussion related to this matter whatever at any time during the meeting.

Q. All right. When was the next time you spoke to Mr. Grimsley?

A. Oh, it was several days later maybe.

Q. This was still several weeks prior to the 22nd of October, is that correct?

A. No, sir, I didn't say several weeks, sir.

Q. When was the second conversation you had with Mr. Grimsley?

[fol. 2992] A. A day or two before I came up here.

Q. That would be on the 20th or 21st of October?

A. I am just guessing, sir, I don't have any calendar, I don't have any method.

Q. There's a calendar right in front of you, sir.

A. I said any method of arriving at the date, it was several days or a day or two prior to me coming up here.

Q. Was it on a weekend?

A. It was close to the weekend.

Q. All right. It was before a weekend then?

A. I couldn't swear it was before the weekend or it was on a weekend.

Q. Where did you see Mr. Grimsley?

A. I didn't see him, I talked to him on the phone.

Q. Who called you?

A. I am not positive of that, sir, I don't remember for sure which it was.

Q. Did you know Mr. Grimsley's phone number?

A. I don't know, I'd have to look and check back and see whether I did or not, I imagine I didn't.

Q. What would you have to check?

The Court: Mr. Silets, frankly, the Court is unable to see where it's material to this motion, any matters pertaining to the circumstances under which he was sent up here.

[fol. 2993] Mr. Silets: Your Honor, this relates to what he was instructed to do and if he was instructed to do things which I think we will establish which were illegal or improper, this is for the foundation for the motion to suppress.

The Court: All right.

Mr. Neal: Your Honor, may I still object here and read a portion of Wellman, and this portion of Wellman vs. United States, 227 F. 2d 757, reading from 770, the Sixth Circuit Court, as I pointed out that, "Our general experience," citing from the Supreme Court case, "shows that much evidence is always receivable, although not obtainable by conformity to the highest ethics. The history of criminal cases shows innumerable cases of prosecution of oath-bound conspiracies for murder, robbery and other crimes, where officers of the law have disguised themselves and joined the organizations, taken the oaths, and given themselves every appearance of active members engaged in the promotion of crime for the purpose of securing evidence. Evidence secured by such means has always been received."

That is from Wellman, Your Honor. Now, without indicating that this man was involved in any crime or indicating any ethics involved, which they were not, of course, the other statements of this case are very appropriate.

How he got here has been explained. When it was arranged he was going to be here he was told by Grimsley [fol. 2994] that if he heard—

Mr. Silets: (Interposing) Your Honor, I object to this.

The Court: Yes.

Mr. Neal: I am stating what this witness has already testified.

Mr. Branstetter: Now, may it please the Court.

Mr. Silets: He will testify.

Mr. Branstetter: We don't want this witness in here at this particular procedure because counsel is now telling him

what he can fit into the overall picture.

The Court: Well, let's move along with the examination of the witness. I will hear the argument of counsel at another time.

Mr. Branstetter: May it please the Court, could I raise this question? This witness, may it please the Court, should not be permitted to determine whether or not his meeting with Grimsley and with the other investigator was related to this case or not by saying simply it was not related to this case.

The Court: No, the Court will determine those questions but, on the other hand, the purpose of this hearing is for a very limited purpose, that is, the motion to suppress and relating to the matters of relationship between the Defendant Mr. Hoffa and his counsel. Now, these other matters, I can't see where they are material.

[fol. 2995] Q. Would you relate the conversation you had with Mr. Grimsley on the phone?

Mr. Neal: I thought, Your Honor, you just said those matters were not material.

Mr. Silets: Your Honor, this is the very heart of this. I know Your Honor is anxious to move along but a fair and impartial trial is not always on a railroad train to the penitentiary.

The Court: All right.

Mr. Silets: No offense to the Court, but I think that I'm entitled to establish what the instructions were he had, what he did, and so on.

The Court: All right, proceed, gentlemen. Tell what your instructions were.

The Witness: Sir, I mentioned to you once before that if it was any evidence of illegal tampering with the jury or illegal activities to call Mr. Sheridan.

By Mr. Silets:

Q. Mr. Partin, you don't recall who called who, that's right, isn't it?

A. I would guess, sir, that when I got ready to leave at the instructions of Mr. Hoffa to come up there that I called him. I would guess that. That is a guess. I couldn't swear to it.

Q. You called Mr. Grimsley and you told him that you [fol. 2996] were going to go to Nashville. Is that right?

A. That is essentially right.

Q. What did he say to you at that point?

A. Sir, I have told you twice.

Q. He told you that he wanted you to report to Mr. Sheridan anything that went on concerning jury tampering?

A. Or any illegal activities connected with it.

Q. Now, was this the very first occasion that this topic came up? Do you mean out of a clear, blue sky he asked you this?

A. That's right, sir.

Q. What did you say to him?

A. I told him that I would. And he give me the number.

Q. Had you ever spoken to Mr. Sheridan?

A. I had never seen Mr. Sheridan.

Q. Then you came to Nashville?

A. Yes.

Q. Is that right?

A. Yes, sir.

Q. Did you advise anybody of the purpose of your going to Nashville?

A. Well, I didn't have to. The man that I was meeting knew what I was there for.

Q. Did you advise anybody that you had been contacted by Mr. Grimsley?

[fol. 2997] A. Well, I didn't think it was material because if they wasn't violating the law they shouldn't care.

Q. And who was to be the judge of whether they were violating the law?

A. Well, I think it is anyone who knows of any illegal activities going on connected with the jury bribery or something of that sort, I think anyone would know that.

Q. So, then, you went to Nashville and you said you had never seen Mr. Sheridan, had you ever spoken to him on the phone before that time?

A. I don't think so, no, sir.

Q. Now, you went to Nashville and you registered in the hotel?

A. Yes.

Q. Did you go up to Mr. Hoffa's suite?

A. Not immediately, no.

Q. Did you ever go up to his suite?

A. Yes, I did.

Q. Now, the very first time you went to his suite who was present?

A. Well, it was after court and there were several people present.

Q. Do you see any of them in the courtroom?

A. Mr. King came in later. Some was walking in with him. I didn't know hs people at the time.

[fol. 2998] Q. Do you see this distinguished, gray-haired gentleman sitting at the table, have you ever seen him before?

A. I have seen him in the hall and then in a room he had up on the floor.

Q. What is his name?

A. Mr. Haggerty, I believe.

Q. And at the time you saw him that was at the beginning of the Test Fleet case in Nashville. Is that right?

A. I'm not positive when I saw him. It may have been in the courtroom when I saw him the first time.

Q. Did you ever see him in Mr. Hoffa's suite?

A. I have seen him in and out, I'm sure.

Q. And, well, you were present there. Is that right?

A. I don't remember for sure whether I was present with Mr. Hoffa when I saw him or what occasion I saw him under but I did see him.

Q. Now, at the time you saw him did you know who he was?

A. I didn't at the time. I knew he was an attorney. I didn't know his name. I knew he was an attorney.

Q. Stand up, Bill, do you see this man standing up there?
A. Yes, sir.
Q. Did you know him?
A. Yes, sir, I did.
[fol. 2999] Q. What is his name?
A. Buffalino.
Q. Now, were you present in any room while Mr. Buffalino was at the Andrew Jackson Hotel during the course of the Test Fleet case?
A. I think I was in his room a couple of times.
Q. Now, did you know at the time he was an attorney for Mr. Hoffa in the case?
A. No, sir, I did not.
Q. You did not, you had no knowledge of that?
A. I did not.
Q. Did you know he was an attorney?
A. I found out later. I thought he was a business agent or president of a local union.
Q. When did you find out he was an attorney?
A. When he started getting up in the court.
Q. When was that?
A. It was several days after the court was started.
Q. Now, when you found out he was an attorney you were in his room then, weren't you?
A. I don't remember, sir, if I was back in his room or where I saw him at. I may have eaten with him. Saw him down in the hall or down in the lobby.
Q. Did you discuss the case with Mr. Buffalino?
A. Oh, he would tell me how things looked and what it [fol. 3000] looked like.
Q. Now, were you present when Mr. Haggerty discussed the case with other attorneys or Mr. Buffalino?
A. I don't think they allowed anyone to sit inside when they were discussing it.
Q. No one else was there?
A. As far as sitting and discussing the case, they would move you out.

Q. So, you were never present when they discussed the case?

A. I may have been present at the time but I didn't know what they were talking about, because I wasn't interested in what they had to say about the case.

Q. What were you interested in?

A. Talking with Mr. Hoffa.

Q. What were you interested in talking to Mr. Hoffa about?

[fol. 3001] A. Mr. Hoffa could answer that, I imagine. He is the one told me to come down.

Q. Sir, you are on the witness stand. What did you talk to Mr. Hoffa about? What were you interested in talking to him about?

A. Well, we had union matters involved. Personal matters involved.

Q. What sort of personal matters?

Mr. Hooker: We submit this is going far afield, if your Honor please, of the question involved. We object to it.

The Court: Sustained.

By Mr. Silets:

Q. Now, you talked to Mr. Hoffa about personal and business matters, right?

A. That's correct.

Q. Now, how long were you there all together in Nashville?

A. December some time, I would imagine.

Q. You were there from October through December?

A. On and off, yes, sir.

Q. Well, on and off, do you mean every other day?

A. Well, I would have to look at the records to tell you how many days I was there.

Q. Well, what record do you have?

[fol. 3002] A. Whatever you have here that would be asking questions on, hotel records, or something along those lines.

Q. Do you have any personal records?
A. No, I don't.
Q. Did you keep any notes of your conversations?
A. No, I did not.
Q. When you were there, did you eat with any of the men in the case, either attorneys or Mr. Hoffa?
A. Yes, sir, I did.
Q. Now, who did you eat with?
A. Well, there were so many people there. We would eat several different places. Several times.
Q. Well, tell us who they were, sir?

Mr. Hooker: We object to that.
The Court: Overruled.
The Witness: Well, there was O'Brien's would be the defendants. Had about 50 truck drivers at one time there eating with us.

By Mr. Silets:

Q. Was Mr. Haggerty eating there?
A. I don't remember him being there but maybe one or two times at the most.
Q. You were present when he was there one or two times?
A. I believe I was.
[fol. 3003] Q. What about Mr. Bufalino?
A. I think he was there some also.
Q. Were there any other attorneys present?
A. I think they went out to other places most of the time.
Q. Do you know a Mr. Maher?
A. Yes, sir.
Q. Was he ever present while you were eating with the Defendant Hoffa?
A. I don't know whether I saw him at O'Brien's or whether it was in the coffee shop of the hotel.
Q. Your answer then is you did see him, you took food with him at some time?
A. Some time or another.

Q. What about Mr. Z. T. Osborn, Jr., do you know him?

A. Yes, sir.

Q. Did you ever eat with him at lunch?

A. No, sir, I haven't. As far as I know I haven't. He may have been sitting in the coffee shop but it was always full of Teamsters.

Q. What about Mr. Kossman, do you know Mr. Kossman?

A. Yes, sir.

Q. Did you ever eat at the same table with Mr. Kossman? [fol. 3004] A. I may have drank coffee, I don't think I have eaten with him.

Q. Well, you drank coffee or had some sort of food with most of them except Mr. Kossman?

A. Well, you would just about have to when you went out in the mornings. Someone was in the coffee shop.

Q. Now, wasn't it a fact when they went out to eat that the case came up as a subject of conversation?

A. I don't think it ever did.

Q. Never came up?

A. As far as saying how does it look or something like that maybe yes.

Q. The case came up as far as the attorneys and Mr. Hoffa saying how it looked?

A. Well, I couldn't say that the attorneys said that, no, sir. It would be someone in the crowd there asked the question, how does it look. It may be a Teamster. Well, maybe an attorney. Maybe one of the defendants.

Q. Now, were there Teamsters eating with the attorneys and the Defendant Hoffa at all times that you ate with him?

A. I don't know of any time that it wasn't. It may have been times.

Q. Back in the room in the hotel, is it not a fact that you were present while the case was being discussed be- [fol. 3005] tween Mr. Hoffa and his attorneys?

A. I don't think I was present. I think I guarded the door outside to keep people out.

Q. You were not present in the room?

A. I don't remember the case being discussed as such. I may have went in and got someone or something like that.

Q. What was the first time you called Mr. Sheridan?

A. Well, I called him the first day I was there.

Q. What did you tell him the first day you were there?

Mr. Neal: Your Honor, are we getting into the evidence now?

Mr. Silets: Not at all.

Mr. Neal: Your Honor, I object to this. I think when the defense calls—

The Court: (Interposing) Sustained. I sustain that objection.

Mr. Silets: Your Honor, I think it is extremely important to ascertain the exact nature of the information that was passed on.

The Court: Well, it seems to me we seem to be getting into the substance of the testimony that is not related to this motion. Sustain the objection.

By Mr. Silets:

[fol. 3006] Q. Did you ever file a written report with Mr. Sheridan?

A. No, sir.

Q. Did you ever see him in person?

A. Yes, sir.

Q. When was the first time you saw him in person?

A. I think I saw him in the lobby of the Andrew Jackson Hotel that night, I am not sure.

Q. Under this arrangement?

A. I couldn't remember for sure. I didn't know him personally until after I had seen him. I mean, I didn't know him until he told me who he was.

Q. How did he identify himself to you?

A. Well, when I called him and met him the first time as far as meeting him I knew who he was.

Q. You called him the first time to meet him. Is that right?

A. I certainly did.

Q. Now, on that occasion the jury was being picked. Is that right?

[fol. 3006A] A. I believe they were, I am not sure of that now, I believe they were.

Q. Did he give you any instructions with respect to your duties in overhearing things between the various parties in the case?

A. No, sir, I didn't have any duties when it came to that.

Q. Did he give you any instructions?

A. Only if I heard any of jury tampering.

Q. Did he explain to you what he meant?

A. Attempting to influence the jury, buying them off.

Q. What?

A. Attempting to buy the jury off or influence the jury by buying them or some other means.

Q. I see. Now, when was the first time you made a report to him?

A. I didn't call it a report. I think I talked to him the afternoon of the day I was—the first day I came in or the night.

Q. Did he give you any device or listening instrument to assist you in your work?

A. No, sir.

Mr. Neal: Your Honor, how is that material to this controversy? I object to it.

The Court: Exception noted. Proceed.

[fol. 3007] Q. You did not receive any?

A. No, sir.

Q. When you reported to Mr. Sheridan and you related certain facts to him, where did you obtain those facts?

Mr. Neal: Your Honor, that's part of the evidence in this case. We are going to show where he obtained the facts. We object to it.

Mr. Silets: Your Honor, you cannot distinguish on a motion to suppress, you can't.

The Court: Proceed.

By Mr. Silets:

Q. Where did you obtain those facts?

A. Well, some of them from the Defendant Hoffa.

Q. From the Defendant Hoffa?

A. Yes.

Q. Now, when you passed that information on to Mr. Sheridan, what did he say to you, if anything?

A. He didn't make any comment.

Q. No comment at all?

A. As far as what he thought about it.

Q. What did he say to you, sir?

Mr. Hooker: Well, we object to that.

The Court: Sustained.

By Mr. Silets:

Q. When was the first time you met Mr. Neal?

A. I saw him in the courtroom, I didn't meet him, I don't [fol. 3008] remember, I believe it was at the Grand Jury hearing, I think.

Q. That was the very first time?

A. As far as meeting him, yes.

Q. Well, when was the first time you met any attorney representing the government in the Test Fleet case?

A. I believe it was during the Grand Jury hearing.

Q. Do you know Mr. Durkin?

A. I believe I do, yes.

Q. Do you see him in the courtroom?

A. Yes, I do.

Q. When was the first time you met him?

A. I saw him in—during the trial and maybe in the Grand Jury room. I am not familiar enough with him to know where I saw him the first time.

Q. You saw him during the course of the trial itself?

A. Yes, in the courtroom.

Q. Did you speak to him?

A. No, I don't think I spoke to him.

Q. Did Mr. Sheridan ever ask you to furnish information concerning cases that the defendant was going to cite the very next day?

A. No, sir.

Q. Did you ever pass that information on to Mr. Sheridan?

[fol. 3009] A. No, sir.

Q. Did you ever overhear such information?

A. I wouldn't have known what it was too because I wasn't interested in authorities they had regarding the trial.

Q. But you were present when such information was discussed?

A. I don't know whether I heard it or not because there was so much going on I couldn't define it as information connected with the charts and so forth.

Q. Then you heard a lot of things that was going on in the case while you were present, isn't that right?

A. Not that I remembered the details of because I wasn't interested in.

Q. You don't remember them now?

A. Well, I wouldn't remember them at the time I walk out the door because I wasn't interested in them.

Q. How often were you reporting to Mr. Sheridan?

A. Only when it was evidence of jury tampering.

Q. And whose decision was that to be as to whether it was jury tampering or not?

A. I would imagine it would be something that you had a basis to decide it on.

Q. That was your decision, right?

A. Well, I would imagine so, yes, sir.

Q. And then when you felt that you wanted to report [fol. 3010] to Mr. Sheridan you would call him?

A. That's correct.

Q. How often did you meet with him in the course of the trial?

A. I don't really remember the number of times.

Q. Was it five, ten?

A. I couldn't guess to the number of times, sir, any more than I could guess the number of times I saw anyone else.

Q. Was it more than once?

A. Yes, it was.

Q. More than five times?

A. I would guess so.

Q. More than ten times?

Mr. Hooker: Of course, if your Honor please, if we are going to have the entire cross examination of this witness, we would be here two or three days. We submit that this inquiry is limited to whether or not there was any improper obtaining of evidence.

The Court: Overruled. Overrule the objection.

By Mr. Silets:

Q. Was it more than ten times?

A. Sir, I wouldn't know the number of times. I told you I wouldn't have a set figure on the number of times.

Q. But it was not infrequent, was it?

[fol. 3011] A. Well, it wasn't very frequent either, as far as being frequent, every day or so.

Q. The case lasted from the 22nd of October until the 23rd of December and you were there most of the time?

A. I was in and out, yes, sir.

Q. You were reporting to Mr. Sheridan, right?

A. No, I wasn't reporting to Mr. Sheridan every time I came into town, no.

Q. Who else besides Mr. Sheridan did you report to?

A. No one.

Q. Just Mr. Sheridan?

A. I said no one, sir.

Q. Only Mr. Sheridan?

A. I don't remember having a conversation with anyone else.

Q. What about Mr. Grimsley?

A. I never saw Mr. Grimsley the whole time he was there.

Q. Did you ever speak to any other agent of the FBI during the course of the Test Fleet case?

A. If I did I didn't know I was speaking to an agent.

Q. As I understand your testimony, you were around while the case was being discussed?

A. I didn't say for sure, sir, I said I may have been there when they discussed it, but I didn't remember be-
[fol. 3012] cause I wasn't interested in the case.

Q. At the time that you were present in the hotel room, were there not certain charts and cardboard exhibits standing around?

A. I can't recall them offhand, there may have been.

Q. Is it not true that you assisted in their preparation?

A. I wouldn't know now—no, sir, I didn't assist, I wouldn't know how to fix a chart.

Q. You didn't do anything to assist?

A. If I did it was so minor I don't remember it.

Q. Is it then your statement that you did not assist in the preparation of a chart?

A. I said I wouldn't remember it because—

Q. (Interposing) You don't remember it now but did you know the fact that there were charts?

A. I saw some that was in court one day.

Q. Weren't those the same charts that you saw in the hotel rooms?

A. I couldn't say they were, no, sir.

Q. You don't remember that?

A. No, sir, I don't because I wasn't interested in that.

Q. Now, you say you didn't keep any notes of your conversations?

[fol. 3013] A. No, sir, I didn't.

Q. When you had a conversation with Mr. Hoffa you would report it to Mr. Sheridan?

A. No, sir, I wouldn't, just when I had a conversation.

Q. When would you report to Mr. Sheridan?

A. When it was some violation of, in my opinion, of the law and this part connected with the jury tampering.

Q. Did Mr. Grimsley or Mr. Sheridan ever advise you what constituted a violation of the law?

A. Well, the bribing of a jury and attempting to influence the jury, is what I was told, by money and so forth, paying off a jury member.

Q. Actual payment of a jury man?

A. Well, something that would amount to the same thing, giving them something or attempting to influence them.

[fol. 3014] Q. Now, at the time that the jury was being picked were you aware that there was some efforts made to determine the background of the jurors?

Mr. Neal: Your Honor, this is getting into cross examination again.

The Court: Sustain the objection.

Mr. Silets: Your Honor, I think it's becoming obvious and very pertinent that this man has made an independent determination of what constitutes a basis for his reporting to Mr. Sheridan. If, in fact, it was not well founded and he reported things which were improper, vis-a-vis are questioned before the Court on the motion to suppress, then I think then we are entitled to know that.

Mr. Neal: Your Honor, this evidence he is going to give I just—, of course, I don't see really the question that they are bringing, anything this man learned of jury tampering can be, it should be reported to the government. Now, whatever else he learned, if he learned anything else, what difference does that make?

Mr. Silets: It makes the difference in this fashion, Your Honor, if he has to make the decision in the first instance what jury tampering is, I want to know what he decided because if he decided to inform on Mr. Hoffa when Mr. Hoffa was discussing a matter with his counsel then we—

The Court: (Interposing) How could that possibly affect [fol. 3015] your client, Mr. Dorfman?

Mr. Silets: Your Honor—

The Court: (Interposing) Your client wasn't a defendant in the case, wasn't represented by any counsel.

Mr. Silets: Your Honor, with all due deference to the Court, if this man engaged in illegal activity then any lead resulting from that illegal activity cannot be introduced into evidence here. Now, he has already mentioned Dorfman's name once. If that was a result of his obtaining illegal information then we have that fruit of the poisoned tree.

The Court: Well, let's move along.

Mr. Neal: Your Honor, may I point out something here? We have cited the Court Hoffman and the Caldwell cases. In those cases the Court states very plainly—

The Court: (Interposing) Gentlemen, let's reserve the argument. I want to hear—

Mr. Neal: (Interposing) I am trying to shorten the thing, Your Honor, I don't see how that possibly can affect this procedure.

The Court: I have sustained the objection so let's move on.

Mr. Silets: Might I state for the record then in my opinion this decision by the Court is effectively thwarting the possibility of establishing—

[fol. 3016] The Court: (Interposing) Re-state your question then and let's see if I understand what you are asking.

By Mr. Silets:

Q. Mr. Partin, is it not true that you were instructed by Mr. Sheridan to report what you determined in your own opinion to be a violation of the law?

A. He didn't specifically say in my opinion, he said if I saw any evidence of illegal jury tampering.

Q. You were to report it to him, is that right?

A. Yes, I said that.

Q. Now, you were to make that decision, were you not?

Mr. Neal: Your Honor, who else could make the decision? Isn't it obvious that he was to make the decision?

The Court: All right. Let him answer.

Mr. Silets: It's so obvious, Your Honor, that is why the objection is not well founded.

By Mr. Silets:

Q. Were you to make that decision?

A. The same as you would if you saw someone on the street commit murder.

Q. Mr. Partin, in your making of this decision as to whether there was a violation of the law would you then have to pass on to Mr. Sheridan, what was your decision with respect to the efforts of the defense to determine the background of the jurors then being selected?

[fol. 3017] A. Well, as far as the attorneys I never had any discussion with the attorneys regarding anything connected with the jury.

Q. You never discussed with the attorneys—, did you ever discuss with the Defendant Hoffa the selection of the jury?

A. Yes, he discussed it with me.

Q. Now, is that one of the matters that you disclosed to Mr. Sheridan?

A. Not the fact that he was just discussing the jury with me, no, sir.

Q. But, in fact, you disclosed to Mr. Sheridan part of the conversation you had with Mr. Hoffa concerning the selection of the jury?

A. Not the selection of the jury, no, sir.

Q. Well, what did you advise Mr. Sheridan about?

The Court: Now we are getting into substance.

Mr. Hooker: That's right.

Mr. Silets: Your Honor, I think nothing I can suggest to the Court, that it's impossible for me to put in any evidence on a motion to suppress without allowing me to establish what was in fact passed on by this man to Mr. Sheridan because if I cannot get into the issue of what he—

The Court: (Interposing) Well, he says that he did not talk with any of the attorneys about the selection of the [fol. 3018] jury.

Mr. Silets: Your Honor, I am saying this, if this man passed information to Mr. Sheridan which itself was improper then the motion to suppress is well founded.

Mr. Neal: Now—

Mr. Silets: (Interposing) If you will allow me, Mr. Neal.

The Court: All right, proceed.

Mr. Silets: May I proceed with the question or with the argument?

The Court: Proceed with your question and let me determine again what your question is.

[fol. 3019] Q. What was it that you passed on to Mr. Sheridan after this discussion?

Mr. Hooker: We object to that.

Mr. Neal: It has been asked and answered, your Honor. You can't go any further without getting into the substance. We submit, your Honor, that the way—

The Court: (Interposing) I am going to sustain that objection.

Mr. Neal: Could I respectfully request your Honor to go on with this man's testimony and cross examination and then we've got what he told Mr. Sheridan.

The Court: Well, let's move on, gentlemen. I have sustained the objection.

By Mr. Silets:

Q. Is it not true, Mr. Partin, while you were ingratiating with Mr. Hoffa, you pretended to help him in the preparation of his case?

A. I never did. I wasn't called for that.

Q. What were you doing there for two-and-a-half months?

A. I was invited there by Mr. Hoffa.

Q. To do what?

A. I have told you once on union matters and personal matters.

Q. Do you mean for two-and-a-half months you had un-
[fol. 3020] ion matters and personal matters?

Mr. Hooker: We object to that.

By Mr. Silets:

Q. Is that right?

Mr. Hooker: Objection. It is immaterial to the question.

The Court: Well, he has already answered. Overrule the objection.

By Mr. Silets:

Q. Were you paid by the government?

A. No, I wasn't.

Q. Were you promised anything by the government?

A. No, I wasn't.

Mr. Neal: Your Honor, isn't this cross examination? What difference does it make? That will all be brought out.

The Court: Sustain the objection.

By Mr. Silets:

Q. Let's see, you have stated that you have eaten with attorneys who were defending Mr. Hoffa in the Test Fleet case?

Mr. Reddy: Now, may it please the Court, he is just going back over what he has already been over at least twice. He has told the counselor who he ate with.

The Court: All right, let's move on.

[fol. 3021] Mr. Reddy: We object to it.

By Mr. Silets:

Q. Did you relate any of those conversations to Mr. Sheridan?

A. Not in regard to the meals and what we were eating, no.

Q. I'm sure Mr. Sheridan wasn't interested in whether it was a medium rare steak or not, Mr. Partin, what did you relate to Mr. Sheridan what was stated at those luncheon, dinner, breakfast, coffee shop, any sort of other meetings while people were eating?

A. I didn't tell you I told him anything while I was eating.

Q. I am asking you, sir, did you or did you not?

A. No, not in regard to what they were talking about at their meals, no.

Q. Did you ever advise Mr. Sheridan of anything that an attorney told you in the course of that case?

A. If I did I wouldn't remember because—

Q. It is possible, isn't it?

A. I don't think so because he wasn't interested in what the attorneys said.

Q. Not interested if the attorney did something which you consider a violation of the law?

A. I don't think the attorneys could do anything I con- [fol. 3022] sider a violation unless they were tampering with the jury or something.

Q. Did you ever at any time advise Mr. Hoffa or anybody connected with the defense of his case, either attorneys or assistants, that you were working for the government?

A. I wasn't working for the government, sir.

Q. Did you ever advise them that you were furnishing the government information?

A. No.

Q. Did you ever receive any instructions from Mr. Sheridan which related to your obtaining information concerning the course of the case?

A. No.

Q. Did you ever receive any instructions from him after the first time you talked to him?

A. By instructions what do you mean? Would you qualify it?

Q. By instructions to refrain from doing an act or saying certain things?

A. No, sir.

Q. Did he ever tell you to say certain things to Mr. Hoffa or any of the people connected with the case?

A. No, certainly not.

Q. Did Mr. Sheridan ever advise you that he was working with Mr. Neal?

[fol. 3023] A. I don't know the connection, no, sir.

Q. Never knew that at all?

A. Well, I didn't except seeing him in the courtroom. I never did see Mr. Sheridan in the courtroom except sitting there.

Q. Did you ever see Mr. Sheridan personally during the course of the case?

A. I have told you that.

Mr. Neal: Your Honor, he has said that several times.

The Court: Yes, let's move along, gentlemen. I want to give you an opportunity but we are not going to stay here all day on this matter and repeating things over and over.

By Mr. Silets:

Q. Mr. Partin, did you discuss your testimony between right now after you were excused by the Court, did you discuss that with anybody?

A. No. I was sitting right by the door.

Q. Who is the gentleman to your left?

A. I don't know him. As far as knowing him, I don't know who he is.

Q. He came in with you and is standing there while you were testifying and then walked out with you, have you ever seen him before?

[fol. 3024] A. No, I haven't. This is the first time I have ever seen him.

Q. Maybe the government can tell us.

Mr. Neal: I hope he is a United States Marshal, but I don't know.

The Court: All right.

By Mr. Silets:

Q. Were you brought to this courtroom by a marshal?

Mr. Reddy: We submit that is immaterial, may it please the Court, who he was brought here by.

The Court: Sustain the objection.

By Mr. Silets:

Q. Mr. Partin, why did you take this assignment?

Mr. Reddy: We submit that is immaterial, may it please the Court.

The Court: Sustain the objection.

By Mr. Silets:

Q. Are you presently under indictment or are you under arrest?

Mr. Reddy: We submit that is immaterial, may it please the Court.

The Court: Sustain the objection.

By Mr. Silets:

Q. Have you ever undertaken any other assignment for the government?

[fol. 3025] Mr. Reddy: We submit that is immaterial, your Honor.

The Court: Sustain the objection.

By Mr. Silets:

Q. Are you on the government payroll at the moment?

Mr. Hooker: We object to that, your Honor.

The Court: Sustain the objection.

By Mr. Silets:

Q. Did anyone else work with you in this assignment that was given to you by Mr. Sheridan?

Mr. Hooker: We object to that.
The Court: Overrule the objection.
The Witness: Not as far as I think someone observed some things that was going on illegal, but I don't think he was working with them.

[fol. 3026] By Mr. Silets:

Q. Someone did what?
A. Observed some illegal activities. I don't think he was working with him.
Q. Who is that?

Mr. Hooker: We object to that.
The Court: Sustain the objection.

By Mr. Silets:

Q. Anybody else from the Teamsters?

Mr. Hooker: We object to that.
The Court: Sustain the objection.

By Mr. Silets:

Q. Did you ever make any recording of any conversation?

Mr. Neal: We object to that, Your Honor.
The Court: Sustain the objection.
Mr. Silets: No more questions.
The Court: All right.

Examination.

By Mr. Branstetter:

Q. Now, Mr. Partin, what was the first time that you visited the office that Mr. Hoffa and the lawyers were occupying in the Andrew Jackson Hotel?
A. What was that?
Q. What date did you first visit the office where Mr. Hoffa and his lawyers were conducting the cases in Nashville?
[fol. 3027] A. They didn't have an office.

Q. All right, the room?
A. The room?
Q. Yes.
A. You asked me what?
Q. I asked you what date you first visited the room?
A. Look—

Mr. Neal: Your Honor, I see no reason for this tone of voice.

The Court: Counsel—

Mr. Branstetter: This witness has waited from my observation each time—

The Court: (Interposing) State your question. Let's state your question.

By Mr. Branstetter:

Q. What date did you first visit the room that Mr. Hoffa and his attorneys were occupying in the case in Nashville?
A. I visited the room Mr. Hoffa was occupying on the 22nd. His attorneys wasn't occupying it.
Q. Is that the first date that you were there?
A. That's correct.
Q. And were you there in this same room when his lawyers were there, didn't you say?
[fol. 3028] A. I didn't say that. I say I may have been there when they was going and coming and so forth. I was in and out.
Q. Do you remember a little table sitting over in the corner of that particular room?
A. I don't remember a little table. I remember a big round table sitting where you come in where they played cards and gambled.
Q. And there was a—

Mr. Branstetter: May it please the Court, if you will instruct the witness to answer the questions.

The Court: All right, just answer the questions.

Mr. Branstetter: I think that we can get properly through a judicial proceeding.

The Court: All right.

By Mr. Branstetter:

Q. Did you sit at this table on many occasions that you speak of? That was in the room?

A. Well, sir, I would have to qualify my answer because as asked me when the attorneys—

Q. Did you sit at the table at all then?

A. Yes.

Q. On several occasions you sat at the table. Correct?

A. I don't know how many times.

[fol. 3029] Q. All right, it was many times, wasn't it?

A. It wasn't many times.

Q. You saw Mr. Haggerty there sitting at a table on a number of occasions and you were there?

A. Not when I was sitting at the table, no.

Q. When you were standing in the room?

A. I may have came in briefly while they were there.

Q. You saw him in the room and you heard discussions about the selection of a jury, did you not?

A. Not selection of a jury.

Q. Did you hear the word mentioned they—

The Court: Mr. Branstetter, let him answer the question before you move on.

The Witness: What was that?

By Mr. Branstetter:

Q. Did you hear the question of selecting a jury for a trial mentioned at all while you were there in that room?

A. I mean I heard they were—

The Court: Mr. Branstetter, at this time now I am not going to permit you to examine the witness if you are not going to permit the witness to answer. You have interrupted him on the last three questions.

Mr. Branstetter: I apologize to the Court but I have done this because the witness has not been responding to the question.

[fol. 3030] The Court: Well, I don't know how you would know because you have been interrupting him.

Mr. Branstetter: We'll see if we can learn.

By Mr. Branstetter:

Q. Did you hear the selection of a jury discussed in the room that you speak of that you were in?

A. I'm not sure whether it was in the room or whether it was in the coffee shop. I'm not positive.

Q. You mentioned and you volunteered when Mr. Silets asked you that you saw charts in the room. When Mr. Silets first asked you?

A. No, sir, I didn't admit it.

Q. You said you saw charts.

A. I don't know what they were.

Q. You didn't know what they were?

A. I didn't know what type of charts they were but they were charts.

Q. Right. You saw charts in the room?

A. I think I saw them going out with charts. I don't think I saw them in the room.

Q. And you listened to various conversations while you were in this particular room while lawyers were present?

A. Not that I can recall as far as when the attorneys were there, no.

[fol. 3031] Q. I am asking you, did you ever hear Mr. Haggerty say anything at all while you were in the room, for example?

A. Maybe that they was selecting the jury that day.

Q. They were selecting the jury. This is what I asked you.

A. And I read that in the paper.

Q. So Mr. Haggerty—now, you heard Mr. Haggerty say that they were selecting the jury?

A. I didn't say.

Q. You—

A. (Interposing) Sir, could I get an answer?

Mr. Neal: May it please the Court.

The Court: Again, Mr. Branstetter, you are interrupting every question almost. The witness hasn't been able to complete an answer in the last three or four questions.

Q. Did you hear Mr. Kossman say anything about the selection of the jury?

A. I don't remember which attorney, if I heard it I wouldn't remember which attorney it was.

Q. You wouldn't remember which one? Did you call Mr. Bufalino and say that the FBI was following you and you wanted some advice on what to do?

A. Call Mister—no.

Q. You didn't?

A. I certainly didn't.

[fol. 3032] Q. Did you talk with Mr. Morris Schinker on the phone from a parking lot?

A. I don't believe I know Mr. Schinker.

Q. Were you present in Nashville on the 4th and the 5th of December of 1962?

A. I'd have to look at the hotel record, sir, I don't remember, I don't know.

Q. I want to call upon your recollection and ask you if on December the 4th and 5th if it's not a fact at night, or it could have been on the morning of the 5th while you were eating breakfast with lawyers, that you later reported to Mr. Sheridan that the defendants were going to talk about the Hoffman hearings.

A. The what?

Q. The Hoffa hearings.

A. Sir, I don't understand your question, you will have to tell me what you are after, I don't understand.

Q. Did you call Mr. William Buffalino from a union meeting and tell him you were being followed?

A. From a union meeting?

Q. In Nashville.

Mr. Hooker: We object to that as being immaterial.

The Court: Sustain the objection.

Q. Would you describe the physical arrangement of the room where you said you saw Mr. Haggerty and Mr. Hoffa?

[fol. 3033] Mr. Hooker: We object to that.

Mr. Neal: Object to that. He said he was there, he has been in the room.

The Court: Sustain the objection.

By Mr. Branstetter:

Q. Now, let me ask you, did you attend court hearings daily after the case began, after the jury was selected?

A. Most of the time I would imagine when I was there I went to the courtroom.

Q. You went to the courtroom?

A. Yes.

Q. Then in the evening you came back to the Andrew Jackson Hotel?

A. I would, I may not have went straight back, I came back.

Mr. Branstetter: Could we see the exhibits so we could see what date the gentleman was there?

Mr. Reddy: No exhibits there.

Mr. Branstetter: One marked for identification.

Mr. Hooker: The hotel bill is here. I don't know where it is. That is it.

By Mr. Branstetter:

Q. In order to refresh your recollection, you were in Nashville registered at the Andrew Jackson Hotel beginning October the 22nd?

[fol. 3034] A. If that's the same receipt.

Q. This is the same receipt.

A. That's correct, sir.

Q. And you were still in Nashville on December the 5th?

A. I would have to look on it to be sure.

Q. Well, could I ask this, do you recall, to refresh your recollection on that, do you recall a shooting in the courtroom in Nashville?

A. Yes, I do.

Q. Were you present then?

A. Yes, I was.

Q. Had you been present each day from the 22nd through the 5th or the 4th, whenever this occurred?

A. I would guess I had, sir, I couldn't remember.

Q. Each day then you were staying at the Andrew Jackson Hotel, is that correct?

A. I guess so.

Q. Well, do you guess so or do you know?

A. Well, I had stayed in other places also, Mister.

Q. And you returned to the Andrew Jackson Hotel in the evening?

Mr. Hooker: We object to that as immaterial.

Mr. Branstetter: No, I am—

Q. Did you return to the Andrew Jackson Hotel after [fol. 3035] court sessions were over on those days that you went to court?

A. I may have went to a show, I may have went downtown or somewhere else, I don't know if I went immediately or I went after I went to the show or whether I ate or what.

Q. Well, did you return to the hotel each evening?

A. I would have to, yes, I was staying there.

Q. Out of those evenings that you did return to the hotel how many times did you go to Mr. Hoffa's room where they were having the groups together?

A. I wouldn't know exactly how many times I went there, sir, I was there.

Q. You were there. You stated earlier you stood as a guard to the door.

A. That was later in the latter part of the trial.

Q. And during that period you could—the door, you stayed at the door of the room while lawyers and others were having conferences?

A. Not right at the door, no, sir, you had a table sitting there outside in the hall.

Q. And you were there by—it was, the door always closed?

A. Yes, sir.

Q. Were you in and out from time to time, if someone came and wanted in did you act as a doorman?

A. All I'd do is open the door.

[fol. 3036] Q. You opened the door and would let them in. On how many occasions did you follow that particular practice?

Mr. Hooker: If your Honor please, we submit that the details of this has got nothing whatsoever to do with—

Mr. Branstetter: May it please the Court, I am trying to proceed with the—

Mr. Hooker: (Interposing) We are objecting to it as immaterial and it is proper cross examination when we get the jury back in here and get going with the trial but not now.

Mr. Neal: Your Honor, could we have the witness excused just a moment? I think that maybe just a few moments argument might expedite this thing.

The Court: I am trying to expedite it every way I know.

Mr. Neal: I know, your Honor.

The Court: And save time and I want to hear what is material to the motion.

Mr. Branstetter: I will try to expedite it.

Q. Where were the typewriters located in the Andrew Jackson Hotel that were being used?

Mr. Hooker: We object to that.

Q. Now—

Mr. Hooker: All these details have nothing to do with [fol. 3037] the limited question before the Court.

The Court: Sustain the objection.

Mr. Branstetter: May it please the Court, I am trying, I think if the Court will look at Page 881 of the Caldwell case the Court will see specifically what is involved here and why I am asking these question.

The Court: What is the citation?

Mr. Branstetter: It is 205 Federal 2d 879 at Page 881, right-hand column, last paragraph.

Mr. Neal: This is the point I am trying to bring out, the Caldwell case which the government cited to your Honor has nothing to do with this situation. You can assume, you can assume the facts in the Caldwell case and you can assume based on those facts that any conviction in the Test Fleet case would have to be set aside. That would not mean, your Honor, that that evidence, that evidence this witness would give would be inadmissible in a subsequent prosecution arising out of things and subsequent developments based thereon.

The Court: Let's see if we can't complete this examination of this witness. Let's move along.

By Mr. Branstetter:

Q. With relation to the room you kept the door for where the girls were doing the typing for the case that was then in process—

[fol. 3038] Mr. Hooker: Objected to.

Mr. Reddy: You sustained the objection to that once, may it please the Court.

The Court: Sustain the objection.

Mr. Branstetter: May it please the Court, this is exactly where the legal work was being surveiled was going on and we could not proceed in accordance with our motion unless that is permitted.

The Court: All right, proceed.

Mr. Branstetter: All right.

The Court: Ask your question.

Mr. Branstetter: Thank you.

By Mr. Branstetter:

Q. Where in relation to the room that you kept the door to let people in and out was the typewriters where the girls were typing?

A. They were three or four doors down below the door, close to the end of the hallway on the wing.

Q. And in relation to that where were you standing when you were keeping the door between the rooms?

A. No, it was again on the way down the other wing way.

Q. Were you ever in that particular room where the typewriters were?

A. I may have went in to make a call or something when [fol. 3039] they wasn't working or something.

Q. Now?

A. To call the office.

Q. How many times were you in that particular room?

A. It wasn't very many times.

Q. Well, five times?

A. I wouldn't think it would be five times, no.

Q. Well, were you there when Danny Maher was in that room? You said you had known Danny Maher.

A. Sir, I said that I was never in the room where the girls were typing, they had two rooms there, the girls were typing in a separate room from where you would go in to use the phone where Mr. Steinberg had his office.

Q. Mr. Steinberg, were you in Mr. Steinberg's office?

A. Once or twice to call the office or make a phone call. [fol. 3040] Q. Now, was there a door between that and the place where the girls were doing the typing?

A. Not that I knew of, no, sir.

Q. Did you see any law books in either of these rooms or see them being used by the lawyers?

A. I didn't notice them if they did, no.

Q. You didn't notice them?

A. No. The office was the same as the International office. That was the International headquarters. I would do the same there as I would if I went to Washington. I would feel free to go in and use the phone.

Q. And you were in and out during that time?

A. No, I didn't say I went in and out. I said I may have been about twice. I had a room that I could use the phone in most of the time.

Q. Was that room on the same floor?
A. No, sir.
Q. What floor was that room on?
A. I don't know. It was a different floor.

Mr. Reddy: We object to that.
The Court: Sustained.
Mr. Branstetter: Trying to get it in a particular place.
The Witness: I didn't say on the same floor, sir, if that is what you are wondering.

[fol. 3041] By Mr. Branstetter:

Q. Now, isn't it true that you told, isn't it a fact that you told Walter Sheridan that the witnesses had written interviews?
A. The what?
Q. That the witnesses had written interviews?
A. What witnesses?
Q. The witnesses that were in the Hoffa trial in Nashville on the floor that you are speaking of where the office was.
A. I don't ever remember nothing of any witnesses who were there going to be witnesses in court. I mean, I don't know of them as such if they were.
Q. You knew Mr. Hoffa was going to be a witness in court, didn't you?
A. Well, no, I didn't know he was going to take the stand for sure.
Q. Did you not see day after day from the 22nd through the 5th that you were there the witnesses that were produced in court?
A. I didn't notice it before they went to court, no.
Q. Well, but you saw them in court?
A. I saw them in the courtroom, yes.
Q. Was it your obligation or your agreement to report [fol. 3042] to anyone other than Mr. Sheridan?
A. It wasn't my obligation to report anything other than jury tampering to him.

Q. Was it your obligation or agreement to report to anyone other than Mr. Sheridan?

A. I didn't have an agreement on anything like that, sir.

Q. You had no agreement to report to anyone other than Mr. Sheridan?

A. If I saw anything illegal or just report to him? I mean, could you tell me what you are asking?

Q. I am asking you if you had an agreement or arrangement to report to anyone other than Mr. Sheridan whatever you were to report?

A. No, I would imagine Mr. Sheridan wouldn't have been interested if I told him I saw a policeman going down the street.

Mr. Branstetter: Now, may it please the Court, this is the reason I've been cutting him off. He imagined he would have done so and so. He can answer yes or no to the question.

The Court: Restate your question.

The Witness: Sir, if I could answer it yes or no. I don't see how I could answer without qualifying it, because if there was an illegal activity, Mr. Sheridan would have been [fol. 3043] the primary one I would have called.

By Mr. Branstetter:

Q. Yes, but now did you have an agreement or understanding that you would report to anyone else? You can say yes or no.

A. No.

Q. Did you say yes?

A. No, I didn't have an agreement about that, no.

Q. Did you bet a goodly number of truck drivers that were witnesses in this particular case from Local 299?

A. I didn't know what they were at the time.

Q. But you later learned they were witnesses?

A. In the lobby when they were hanging around and in the courtroom, yes, I learned they were witnesses.

Q. And you saw them around the headquarters or around the Hoffa room that you speak of?

A. I don't think they interviewed those people. I think they were interviewed down the hall.

Q. Did you ever talk about the case at all? The witnesses or the persons that later turned out to be witnesses?

A. I don't—I wouldn't have talked to them any more than I would have anybody else. I wouldn't have remembered the details the same as I discussed it with anyone.

Q. But you did talk with them those persons whom you later knew later became witnesses?

[fol. 3044] A. I don't remember, sir, no, because I didn't know the people.

Q. Did you see Dave Previent there, an attorney from Milwaukee?

A. I did.

Q. When did you first meet Dave Previent?

A. I don't remember. He had a room somewhere down the hall, down that way, and when I passed by sometimes I would see him inside.

Q. You would see him talking to people?

A. Well, the only times I remember seeing him is laying down on the bed. He had the door open. I have seen him walking in and out as far as walking out but as far as being in the room doing anything—

Q. (Interposing) Did Mr. Previent in any other rooms than the ones you have just mentioned, did you see him in any other rooms?

A. I would imagine I saw him going in and out of Mr. Hoffa's room I would guess because he was there, excuse me, and—

Q. (Interposing) And you saw him going in and out of what you call the International headquarters?

A. I don't remember seeing him going in there, no.

Q. Did you see him go and come on this particular floor on many occasions?

[fol. 3045] A. Well, the one occasion that I—the one occasion that you are talking about hearing him in reference to what he had or what he was doing in the case or something like that? I mean, in what capacity?

Q. In any capacity.

A. Well, the only thing that I know in detail what he did was when he wrote a letter to Nashville clarifying the absentee ballots back-dated the letter for the election coming up.

Q. Did you report this to Mr. Sheridan?

A. I didn't think that was anything involving a law. That was a matter of union interpretation.

Q. Where were you when this was written?

A. I didn't know this was written. I heard them discussing it about the letter.

Mr. Hooker: We object to it.

By Mr. Branstetter:

Q. Where were they when this discussion took place? I want to ask him what it is about.

Mr. Reddy: We submit it is immaterial.

The Court: Overruled.

By Mr. Branstetter:

Q. Where was the discussion?

A. I believe the discussion was held with the fellow that came in to get the letter from Memphis downstairs if I'm [fol. 3046] not mistaken. Told me what he had came for. Told me who had drawn the letter up for him.

Q. And Previent was discussing this with someone?

A. No, I didn't say that. I said I had saw the gentleman came for the letter and told me what he came for and who was drawing it up for him.

Q. Now, before you said that Mr. Previent you saw him draw up the letter and I was just wondering where you saw him draw it up?

A. I said he was in regard to a letter that he drew up. He may have drawed it up anywhere. Now, I don't know but it was in regards to the letter if I could think of the gentleman's name that was there, he was out of Memphis, and he was there for the letter.

Q. Did you attend meetings of the local in Nashville while you were there?

Mr. Neal: Objection, your Honor.
The Court: Sustained.

By Mr. Branstetter:

Q. Do you recall any specific conversation that you had with Mr. Haggerty at any time during this period of time you were in Nashville from October 22 at least through December 5th?

A. Nothing that I can recall in detail other than what the ordinary conversation would be.

[fol. 3047] Q. Right, but you did talk to him on more than one occasion?

A. I'm sure I talked to him if I was there, I am sure of that.

Q. Do you remember any conversation, without mentioning what it was at this point, with Mr. Buffalino during the period of October 22 through December 5th?

A. I don't remember that now in detail, no, sir. It may have been.

Q. I am not asking in detail, but merely the conversation.

A. I had several conversations with Mr. Buffalino.

Q. All right.

Mr. Branstetter: Thank you. That is all I ask.

The Witness: You didn't let me finish.

The Court: Go ahead and explain it. You didn't let him finish. Go ahead.

The Witness: I said I had several conversations with Mr. Buffalino because I had learned he was an attorney and also president of a local union and we had several discussions that wouldn't pertain to that. Pertained to football players. Pertaining to basketball players that he may have knew. He wanted to get an autograph from Jimmy Taylor for his son. And Billy Cannon. He wanted personal favors with him. He wanted to meet him. He wanted his son to meet him.

[fol. 3048] By Mr. Branstetter:

Q. Where did these conversations with Mr. Buffalino take place?

Mr. Neal: Objection, your Honor. Immaterial.

The Court: Overruled.

The Witness: Sir, I don't remember where we talked. We may have talked eating or we may have talked walking down the street. I don't know.

By Mr. Branstetter:

Q. Many times you went from the Andrew Jackson Hotel in company with Mr. Buffalino, Mr. Coffman, and other attorneys representing Mr. Hoffa from the hotel to the courtroom, is that correct?

A. In a group with 15 or 20 others maybe.

[fol. 3049] Q. You did this many times?

A. I wouldn't say it was many times. They may have—We all walked, we couldn't get taxis, all the people going to court usually walked unless they had cars they had to walk.

Q. Now, as you came back from the courtroom in the afternoon did you on several—, some occasions walk back with Mr. Haggerty and Mr. Buffalino and Mr. Hoffa and other attorneys representing him in this case?

A. Well, I'm sure at some time or another I did.

Q. And do you recall during this period of time that on some occasions persons at least who had been or later became witnesses walked back and forth in this same group?

Mr. Reddy: Now, may it please the Court, I think he has been over that at least once asking about the witnesses.

The Court: Yes, I believe you have covered that. Sustained.

Q. Was Mr. Buffalino in the courtroom each day that you were there in the courtroom?

A. I don't think so, he may have been every day, I don't think so, I'm not positive.

Q. And were you in the courtroom every day you were in Nashville that the trial was in progress?

Mr. Reddy: He asked him that, may it please the Court, at least twice.

[fol. 3050] The Court: That has been asked several times.

Mr. Reddy: He better get his notes in order, may it please the Court, I think he is getting them mixed up.

The Court: I sustained the objection.

Mr. Branstetter: Excuse me. Do you remember—I am not asking the same question.

By Mr. Branstetter:

Q. Do you remember asking Mr. Kossman on more than one occasion how the case was going, this man here. (Indicating)

A. I may have asked him how it looked because he wasn't in the courtroom as an attorney.

Q. Well, now, was this the reason that you asked him was because he was not in the courtroom as an attorney?

A. No, I may have been around him more than I would one of the others because he wasn't in the courtroom practicing, sit out in the audience a lot of times, I may have sit by him out in the audience.

Q. And did Mr. Kossman tell you how the case was going in his opinion, in his view?

A. He usually didn't have much to say except to criticize other attorneys.

Q. Criticize other attorneys. But he told you how the case was going in his view.

A. He never would give me a direct answer, no, sir.

Q. Did you on one occasion take the charts that were [fol. 3051] being prepared in the hotel room out to be printed?

A. If I did I didn't know what I had, I will put it that way.

Q. Well, did you take anything out of the hotel that appeared to be a chart to have it printed?

A. As much as I could remember. The only thing I ever done I mailed a letter for Mr. Steinberg.

Q. You mailed some letters?

A. I said a letter. As far as I know, now, I think I went and got some mail, I mailed a letter for Mr. Steinberg.

Q. Well, now, you stated you did or did not take charts out of the headquarters. The room that you spoke of that they were in to have them re-printed or re-worked, you can answer that yes or no and then explain all you like.

A. Well, I couldn't say because I don't remember ever handling charts so I couldn't say yes, I don't remember ever handling.

Q. Are you denying that you did this?

Mr. Neal: If Your Honor please, I believe he said he doesn't remember in sixteen different ways.

The Court: All right.

Mr. Neal: Object to him continually asking questions.

By Mr. Branstetter:

Q. Will you state whether or not you remember seeing [fol. 3052] charts in the room.

Mr. Neal: He said that.

The Court: He said that. Sustained.

By Mr. Branstetter:

Q. You checked into the Andrew Jackson Hotel the night that you came to Nashville, the 22nd, is that right, correct?

A. I think I came in during the day.

Mr. Reddy: I object to that, may it please the Court. At least four times.

The Court: Sustain the objection.

Q. Did you ever report to anyone other than Sheridan?

Mr. Neal: Object to that, Your Honor.

The Court: Sustained.

Mr. Branstetter: I asked if he had the obligation, the Court will find, not that he had done it.

The Court: I believe he has answered that question on several occasions.

By Mr. Branstetter:

Q. Do you recall what time of day it was when you arrived in Nashville?

Mr. Reddy: Been over that, may it please the Court.

The Court: Overruled.

A. I think it was around noon, sir, because—

[fol. 3053] Q. (Interposing) Do you—, excuse me—, do you remember how you came to Nashville, by plane, bus or train?

A. By plane.

Q. By plane?

A. As far as I can remember by plane, yes, because I came most of the time by plane.

The Court: All right, is that all?

Mr. Haggerty: May it please the Court, at this time may the record disclose that this motion to suppress is also made in behalf of the Defendant Hoffa.

The Court: All right, yes. Just a moment.

Mr. Branstetter: I think, may it please the Court, it was being shown it was made on behalf of all defendants if it became material to all defendants.

Mr. Schiffer: Your Honor, with reference to the witness I would assume that in the case of this witness the issue of credibility of what he is testifying here can be questioned.

The Court: All right. At this time?

Mr. Schiffer: Pardon me, sir.

The Court: At this time?

Mr. Schiffer: With reference to the statements and answers he made here at this very hearing.

Mr. Hooker: No.

Mr. Neal: No.

[fol. 3054] Mr. Reddy: No.

The Court: Well, let's see what you have in mind. I can't rule on your question.

Examination.

By Mr. Schiffer:

Q. Mr. Partin, at the present time you have been charged with the crime of kidnapping, have you not?

Mr. Hooker: We object to that.

Mr. Neal: As a matter of fact, there is no charge of kidnapping against that man.

Mr. Schiffer: What is the charge, Mr. Neal? Suppose we save the time of the Court and you tell the Court what he is charged with.

The Court: All right, address your remarks to the Court.

By Mr. Schiffer:

Q. Within the jurisdiction of the United States District Court as of July 10th, 1962, Mr. Partin, isn't it a fact you were charged with an indictment containing 26 counts charging embezzlement, stealing, conversion of money, 13 counts of stealing and embezzlement?

Mr. Reddy: We object.

Mr. Schiffer: Are you trying to hide the truth?

Mr. Reddy: No, I am trying—

Mr. Schiffer: (Interposing) Let His Honor—

The Court: (Interposing) Mr. Schiffer, address your [fol. 3055] remarks to the Court. I don't want to—

Mr. Schiffer: (Interposing) He doesn't let me finish the question, Judge.

The Court: Well, you know the instructions the Court

has given in that respect. I do not want counsel arguing among themselves. Allow him to finish the question.

By Mr. Schiffer:

Q. Is it not a fact, I will commence again then Judge—, is it not a fact that on July 10th, 1962, in the United States District Court for the Eastern District of Louisiana in the Baton Rouge division, you had been indicted under 26 counts in the indictment charging embezzlement, stealing, conversion of money and so on, 13 counts for embezzlement and stealing of money and 13 counts of making false entries in the books and records of your local union No. 5 when, in fact, the payments all went to yourself, is that not a fact?

Mr. Hooker: Object to that, if Your Honor please.
Mr. Schiffer: I will connect it up, Your Honor.
The Court: Sustain the objection.

By Mr. Schiffer:

Q. Isn't it a fact, sir, that the price for your coming here to testify the way you are doing is that the government will dismiss those charges against you?

Mr. Hooker: We object.
[fol. 3056] Mr. Reddy: We object to that, may it please the Court.

By Mr. Schiffer:

Q. Is that not a fact?

Mr. Berke: We think if the Court is going to weigh any evidence—
The Court: Overrule the objection.
Mr. Berke: We think that—
The Court: (Interposing) I overruled the objection, Mr. Berke.

A. Would you re-state the question?

Q. Is it not a fact, sir, that the price that you have exacted and the government agreed to for your coming in to testify in the fashion you are testifying was the dismissal of that indictment among others?

A. I have never been promised anything by the government nor have I ever asked anything, sir.

Q. Have you been brought to trial on that charge yet on that indictment when you were indicted July 10th, 1962, have you yet been brought to trial?

A. On which is that now? I thought it was—, would you read it over again?

Q. On July 10th, 1962, in the United States District Court in the Eastern District of Louisiana, at Baton Rouge Division have you yet faced trial for the embezzlement?

[fol. 3057] A. I faced trial in the International, they found me not guilty.

Q. I am talking about the United States District Court case that I just read to you. Have you been brought to trial on that case?

A. No, I haven't.

Mr. Hooker: If Your Honor please, we object, he said no.

The Court: Sustain the objection.

Mr. Schiffer: Well, he answered, he said he has not been brought to trial.

The Court: All right.

Q. Is it not a fact and within your knowledge that under this indictment that we referred to in Louisiana that if you are convicted you could face 78 years imprisonment and fines totaling $260,000?

Mr. Hooker: Object to that.

[fol. 3058] The Court: Mr. Schiffer, this is clearly a matter that would only relate to the cross examination. I sustain the objection.

Mr. Schiffer: I want to show the causation, your Honor, the motivation and the credibility of this witness as to

why he is testifying in the first place and what he expects to gain through the intervention of Mr. Sheridan.

The Court: There must be some rule to these side remarks.

Mr. Silets: We have been trying—

The Court: (Interposing) We have spent more time in this lawsuit trying side issues than we have trying this lawsuit. There must be some reasonable limitation. The Court understands it has some responsibility in that respect.

By Mr. Schiffer:

Q. On April 11, 1963, were you charged with perjury, were you not?

Mr. Hooker: Object to that.

Mr. Schiffer: I believe this is germane to this issue, your Honor.

The Court: Overrule the objection.

A. Yes, it has since been nol-prossed.

Q. Who nol-prossed that case?

A. Well, I imagine the lack of trial, they didn't try it, they hung up there for several years, it wasn't a federal [fol. 3059] case whatever.

Q. Was Mr. Daniel?

A. Who?

Q. Mr. Daniel one of the prosecutors in this case?

A. No.

Q. His office the prosecutor?

A. I don't know whether his office was or not.

Mr. Neal: Your Honor, that is the type of cross examination that we have objected to continuously.

The Court: Sustain the objection.

Mr. Neal: Prior convictions are admissible.

The Court: Sustain the objection.

Mr. Neal: Charges aren't.

The Court: Mr. Neal, I sustained the objection three times.

Mr. Neal: Your Honor, how do you stop Mr. Schiffer from continuing asking?

The Court: I am having difficulty stopping you now.

Mr. Neal: I apologize to your Honor.

[fol. 3060] Q. On September 26 of 1962 and according to your testimony this is about a month before you came to Nashville, after you had had your private talk with the representatives of the FBI in Louisiana, and you came to consult with Mr. Sheridan in Nashville, is it not a fact that on September 26, 1962, or the day before, you surrendered yourself on a charge of kidnapping?

Mr. Hooker: We object to that.

The Court: Sustain the objection.

Mr. Neal: Your Honor, isn't there some way that counsel can be admonished? He knows this to be improper cross examination.

The Court: Yes, sir, this line of inquiry is not appropriate. This line of inquiry is not appropriate to the particular matters that are before the Court at this time.

Mr. Branstetter: May it please the Court, I understood that in a hearing of this character or this type that the credibility of the witness as to particularly one that I thought at least apologetically—

The Court: (Interposing) Gentlemen. Gentlemen. I will hear you, but if you want to argue each one of these things we are going to stay here all night and you are just going to have to argue all night long. If you want to argue, I will stay right with you. The Court has some responsi-[fol. 3061] bility to make some reasonable limitation in this type of inquiry and I think that we have reached a point where I should make a limitation and I am so ruling.

Mr. Schiffer: May I inquire, your Honor, to save time and it may save time at my suggestion, if that is what your Honor means to convey, shall we stop questioning of the witness and go into legal argument or are we now—

The Court: (Interposing) No, sir. I have sustained the objection to the matters which you are directing your attention to at the immediate time because I feel that they are proper for cross examination and not appropriate at this particular time.

By Mr. Schiffer:

Q. Have you ever seen me before?
A. Not that I can recall, sir.
Q. Pardon me?
A. Not that I can recall.
Q. Did you ever see me in Nashville at the time you testified to when you were there in 1962?
A. I don't remember it if I did. Offhand I don't remember you.
Q. Did you ever break bread with me?
A. If I did I don't remember you because there was a lot of people there.
Q. Did you on more than one occasion have lunch or [fol. 3062] dinner with me?

Mr. Neal: He has asked the question and answered it, your Honor.

Mr. Schiffer: He didn't answer that question. I didn't hear the answer to that question. I didn't ask that question.

The Witness: If I can find out what your name is, sir, I might remember you.

By Mr. Schiffer:

Q. Just by my face?
A. By face, I don't remember you.
Q. Did you and I ever sit in Mr. Hoffa's suite and discuss the Nashville case together with another attorney present and Mr. Hoffa was not there?
A. Unless I know who you are, sir, I can't answer you.
Q. My name is Jacques Schiffer.

A. I have seen you in Nashville. If you are the one that is out of Chicago.

Q. If what?

A. You are out of St. Louis or Chicago?

Q. No, I'm not.

A. Well, I don't remember you then, I can tell you that.

Q. But you know the name, you have seen me in Nash-
[fol. 3063] ville, is that right?

A. I don't remember seeing you. I remember the name. The name is familiar.

Q. Will you please answer the one specific question and save the time of the Court?

A. I don't remember your face, sir. I remember the name.

Q. Remember the name. Didn't you and I sit in the company of another attorney in Mr. Hoffa's suite when he wasn't there and discuss the Nashville case with you as a Teamster official?

A. I don't remember the occasion, sir. I don't remember sitting with you. I may know the other attorney if I see one, if there was a meeting.

Q. Did you see Mr. Buffalino whom we identified before?

A. I know Mr. Buffalino.

Q. Does it refresh your memory if I tell you you sat with Mr. Buffalino and myself in Mr. Hoffa's suite and discussed the Nashville case with you and went into depth about the defense?

A. I don't remember you doing it, sir. I certainly don't.

Q. Do you remember any attorney doing that?

A. Not going into the Nashville case in detail, no, sir.

[fol. 3064] Q. Well, you were there for a purpose, were you not?

A. That is at the request of Mr. Hoffa, yes.

Q. I am not talking about the request of Mr. Hoffa, you were there at the request of the FBI, but being transmitted to you when you got to Nashville to try and see if someone was committing a crime, isn't that so?

A. I wasn't there at the request of the FBI.

Q. Will you tell me, please, why did you want to take the assignment from the FBI to come to Nashville to do what you say you were doing to try to do for the FBI?

A. I don't know.

Mr. Neal: Your Honor, objection.

By Mr. Schiffer:

Q. Will you tell us why?

The Court: Sustain the objection.

By Mr. Schiffer:

Q. Isn't it a fact that you came to Nashville to try to do whatever you thought could help you to dismiss the present and then pending indictment against you?

Mr. Neal: Objection, your Honor.

The Court: Sustained.

Mr. Neal: He said he never has been promised anything.

The Court: Sustain the objection.

[fol. 3065] By Mr. Schiffer:

Q. Do you know a party by the name of Cleary?

A. Who?

Q. Cleary (spelling) C-l-e-a-r-y.

A. Cleary, no, sir, I don't believe I do. Cleary?

Q. Is there any claim now pending against you and your local union before the NLRB in Washington entitled, Cleary against Partin and Local Union in Baton Rouge, Louisiana?

Mr. Hooker: We object to that.

The Court: Sustained.

Mr. Schiffer: I want to connect this up, your Honor.

The Court: I can't see how. Sustain the objection.

Mr. Schiffer: May I just ask one question with reference to your response to my other question?

By Mr. Schiffer:

Q. This is as to whether or not it isn't a fact that you, Mr. William Buffalino, and myself, on at least one occasion sat with you in Mr. Hoffa's suite when Mr. Hoffa was not there and discussed the defense of that case with you as a Teamster official?

Mr. Neal: Objection, your Honor.

The Witness: It has been asked and answered, your Honor.

[fol. 3066] The Court: Yes, he has answered that question.

Mr. Schiffer: May we just have an answer to that again? I didn't quite get the answer last, your Honor.

The Court: All right.

The Witness: I said I didn't remember meeting with you and having a discussion. I said the name sounded similar and I remembered talking with Mr. Buffalino several times.

By Mr. Schiffer:

Q. But you on your oath sat here, as you sit here, could not swear that it didn't happen?

A. I couldn't swear to it, no.

The Court: All right. Anything further?

Mr. Branstetter: We have nothing further from this particular witness at this time, but we have other witnesses that we would like to submit.

The Court: Mr. Partin, did the government send you to Nashville on this case?

The Witness: No, sir, they did not.

[fol. 3067] By the Court:

Q. Did they provide any transportation for you in Nashville?

A. No, sir, they didn't.

Q. Were you in any way in the employ of the United States at that time?

A. No, sir, I wasn't.

Q. But was there any arrangement for the government paying any of your expenses or compensating you in any way in your trip to Nashville?

A. No, sir.

Q. At whose request did you go to Nashville?

A. Mr. Hoffa's. Telephone conversation at Newark, New Jersey.

The Court: All right, you may be excused.

Mr. Branstetter: May it please the Court, in the light of those questions, might I ask another question of this witness?

The Court: All right.

Further examination.

By Mr. Branstetter:

Q. Did I understand you to say that you had talked to a Mr. Grimsley and he told you to come to Nashville and report to Mr. Sheridan?

A. No, sir.

Q. Who told you to come to Nashville and report to Mr. [fol. 3068] Sheridan?

Mr. Neal: That is two questions, Your Honor. I submit he should break them up.

The Court: Those matters have been covered, yes, sir, we covered those matters in detail in Mr. Silets' examination. Sustain the objection.

By Mr. Branstetter:

Q. Well, I'm sorry if I asked another question the same, I don't mean to then, may it please the Court, you talked to Mr. Sheridan and Mr. Grimsley or other people con-

nected with the FBI before you left New Orleans to go to Nashville on the 22nd?

Mr. Reddy: Now, may it please the Court, that has been gone over at least three times.

The Court: Sustain the objection.

Mr. Reddy: We object to it.

The Court: Sustain the objection.

By Mr. Branstetter:

Q. Did you notify—, when you reported to Mr. Sheridan from time to time, which you stated, were you then staying in Nashville at the request of Mr. Sheridan?

A. No.

Q. Did Mr. Sheridan tell you to stay and report to him from time to time?

A. He didn't tell me when to go or when to stay.

[fol. 3069] Q. He told you to report to him from time to time, is that correct?

A. If I had any information as I have already told you, sir.

Q. That you were to report to Mr. Sheridan?

A. If I had the information.

Q. If you had the information?

A. Yes, sir.

Q. And you did report to him from time to time?

A. I believe—

Mr. Reddy: I submit, may it please the Court, we have been over this.

The Court: Sustain the objection. Yes. All right. If nothing further you may be excused at this time, Mr. Partin.

(Witness excused.)

Mr. Branstetter: We would like to call Mr. Buffalino.

The Clerk: Hold up your right hand? You do solemnly swear that the evidence you give in this case will be the

truth, whole truth, and nothing but the truth, so help you God?

The Witness: I do, sir.

The Clerk: Have a seat.

[fol. 3070] WILLIAM E. BUFFALINO, a witness called by the defendants pursuant to the motion to suppress, having first been duly sworn, was examined and testified as follows:

By Mr. Branstetter:

Q. Would you state your name, please?

A. My name is William E. Buffalino.

Q. Would you state your occupation?

A. I'm an attorney with offices at Suite No. 500 Bennett Building, Wilkes-Barre, Pennsylvania.

Q. How long have you been an attorney?

A. Since August 20, 1942. Twenty-one years, twenty-two years.

Q. Are you authorized to practice law in the various Federal Courts or in Federal Courts?

A. Yes, sir.

Q. Sorry.

A. I am. I am admitted to practice in Federal Court in the Middle District of Pennsylvania and the Supreme Court of the United States.

Q. Member of the bar of the Supreme Court of the United States?

A. Yes, sir.

Q. State whether or not you were an attorney of record in the Nashville case of United States versus Hoffa, known [fol. 3071] as the Test Fleet case?

A. I was an attorney of record.

Mr. Neal: Your Honor, we will stipulate that he was. I was there.

The Court: All right.

By Mr. Branstetter:

Q. State whether or not you actively participated in that case as an attorney of record?

A. I did.

Q. State whether or not you engaged in work preparatory to the beginning of trial of that case.

A. I did and I did for many, many months before. And during the immediately and prior to the trial and during the trial.

Q. Were you present in court each day of the trial from October 22nd at least through December 5th?

A. I would say the record would reflect that and I believe that. I don't know if I would have missed a few hours or a day, but I would say yes.

[fol. 3072] Q. Do you know an Ed Partin?

A. I know an Ed Partin.

Q. Were you present in the court while he was testifying immediately preceding?

A. Yes, sir.

Q. Did you see Ed Partin in Nashville, Tennessee, on or about or beginning October 22nd, 1962, did you see him in Nashville, Tennessee?

A. On or about October 22nd, I would say yes.

Q. Would you state what your connections or associations with him were?

A. Yes. I had many discussions with Ed Partin regarding the actual strategy of the case.

Q. Did you discuss with him?

A. I—

Q. (Interposing) Go ahead, excuse me.

A. My discussions centered and revolved around information that was to be placed on the charts that were to be introduced into evidence. In fact—

Mr. Berke: (Interposing) Hold it just a minute.

The Court: We might as well release the jury to go back to the hotel.

Mr. Branstetter: May it please the Court, could we ask for a very short recess while you are doing this because we haven't had a recess for some time and some people [fol. 3073] need to use the bathroom right away.

The Court: All right. Well, the jury may be excused to go back. Gentlemen, will it be necessary for the Court to call the jury into the courtroom and instruct them with regard to not consulting about the case?

Mr. Branstetter: No, your Honor.

The Court: Do all counsel waive that?

Mr. Alexander: Yes.

The Court: It is understood you do, so the jury then may be taken back. Will five minutes suffice for this purpose?

Mr. Branstetter: I believe a little more than that by the time—

The Court: (Interposing) All right.

(Thereupon, a recess was had.)

Mr. Neal: May it please the Court, I know it might seem like I am killing time, but I actually am trying to expedite this thing. I understand all of this testimony now in the record is to whether or not he overheard defense strategy in the last case.

The government takes the position, your Honor, both on the Caldwell and Coplin case that that would make no difference in this trial, your Honor.

The Court: Well, Mr. Neal, I have concluded that it would be appropriate that the Court have a hearing on the [fol. 3074] matter and I am not in position to curtail the hearing at any particular point.

I must rule upon the matters as they are presented. I cannot at one particular point say that I will not hear anything further. I am attempting, however, to keep the hearing within some reasonable bounds, some reasonable relevancy to the motion.

Mr. Neal: Your Honor, does your Honor understand that we take that position?

The Court: Yes, I understand your position in that respect. Proceed.

Mr. Branstetter: Very hurriedly, may it please the Court. If counsel will stipulate this person was placed in this position and did engage in those activities and that we rely on Caldwell versus the United States, then there is no need of us proceeding further. We will certainly stipulate to that.

The Court: I believe we will all save time if you go directly to the matter before the Court.

By Mr. Branstetter:

Q. Mr. Buffalino, you stated that you knew E. G. Partin and that you had had some contact with him. Now, would you proceed and tell what contacts?

A. I did say that. I recall vividly that on the night of the 4th of December, 1962, he was in our room and I will [fol. 3075] explain exactly what I recall. In fact, this afternoon I telephoned Detroit to ask them to send the transcript of December 5th to me because I remember that the night of the 4th I was in the process of preparing, interviewing several witnesses, truck drivers, that were in from Detroit.

It was some type of meeting they had to get back to and in preparing the questions and the answers actually what I did was interview the witnesses and made a memorandum in his presence on more than one occasion, memorandum of the interrogatories. I asked them questions and I made notes. These notes were typed in question and answer form. I gave these questions and answers to the witnesses and that particular witness would then—I asked him to make any changes and so forth if my notes weren't accurate, and this was actually a work product of mine.

This were typed. They were typed and Ed Partin helped me staple them. He was carrying copies back and forth from one place to the other.

On the 5th, and the record will show, on the 5th or one of those days when Mr. Neal was interrogating the witnesses, he asked, "Isn't it a fact," or words to this effect, "Isn't it a fact that or were you supplied with questions and answers as to what your testimony should be?"

That will be in the transcript when it gets here tonight. [fol. 3076] There is another thing that happened on December—

Q. (Interposing) Let me see if I understand you. You say this gentleman that was on the stand, Partin?

A. No, he was not on the stand. There was another.

Q. I mean he was on the stand earlier today?

A. Yes.

Q. Helped staple these questions and answer material?

A. Yes, sir, he was there.

Q. And Mr. Neal then asked if these witnesses did not have this same material the following day?

A. That is exactly right.

Q. And you say the transcript will show this?

A. The transcript will show that question. There is another very important question on December 5th. I was the attorney interrogating the witness, his name was Larry, I don't know what his last name is, he was a truck driver, he was on the witness stand, I was interrogating this witness and I was about to get into an avenue of questioning, questions that I had discussed with Ed Partin and others in the room with the attorneys, I discussed the night before, the type of questions that I was going to ask the witness. Ed Partin was in the room sitting at the round table.

Q. How many lawyers were there present?

A. At least four or five or six.

[fol. 3077] Q. Was the Defendant Hoffa there present?

A. Mr. Hoffa was there, Mr. Haggerty was there, Mr. Kossman was there, probably Jacques Schiffer was there, I don't know that, Dan Mayner was there, Daniel Marr, an attorney out of Washington was there, Mr. Osborn may have been there. Now, I had discussed these questions that I was going to ask with the attorneys. Ed Barton had a deck of cards that he was just shuffling and playing, fooling around with a deck of cards at the table.

The next day when I got on to this particular area I started, now, and this is the language, "Now, Witness, I bring you back to 1953," and that is all I had to say and Mr. Neal jumped to his feet and said, "I object, Your Honor, they are getting to a different area."

I said, "How do you know where I am going, what I am going to ask."

He answered, and he said, in fact, Your Honor, I suggest, may request that the jury leave this room and I want to argue this particular case in the absence of the jury. The jury left, left the courtroom.

I said to Mr. Neal, "How do you know what I'm going to ask, all I said was 1953?"

He said, "I am psychic." That's in the record.

Q. That's what Mr. Neal said.

A. He said he might be psycho, it's in there.

[fol. 3078] Q. All right. Do you remember and, if so, state whether or not there were discussions between lawyers and Mr. Hoffa about the occupations, race, various aspects of the jury during the beginning of the jury selection on the 22nd, if that was the date when this Mr. Partin was or was not present.

A. There were discussions. We were talking about the filing of various motions about disqualifying the jury because there was not a proper cross-section of the community based on race, creed, color, heritage, and so forth, and Ed Partin was in and out of these discussions at that time.

Q. State whether or not Mr. Partin went with some lawyers from time to time from the Andrew Jackson Hotel

to the courtroom and back in the evening after the trial had concluded for the day or court had adjourned.

A. He did on several occasions. I recall on one or two occasions at least that he and I were discussing the various questions and I told him that the government actually had no case, there was absolutely nothing to it, and things of that nature, and also the various things that I was going to interrogate or ask. In fact, I was in charge of the files there and at that time I would have the files, I would show him a file, I would show him a file folder, he would look at it, he would puruse through it and I would explain to him exactly what our strategy was.

[fol. 3079] Q. Now, state whether or not there were various charts in the room where the lawyers met and discussed and prepared the case.

A. There were charts.

Q. State, if you know, whether or not Partin had ever volunteered to assist in taking some out to get them printed or to get them worked over?

A. Yes, on one occasion and possibly two the charts, as we drew them up first, I think that they were brought into court and the judge we had showed them to the court in the absence of the jury, the judge had made some type of a statement that this column shouldn't be there or the caption was improper and these numbers should be changed or this column should be out and Ed Partin worked on that and it is to the best of my recollection, that Ed Partin took that chart and says, "I know where to go and have it printed", or words to that effect.

Q. Now, state whether or not you ever came into the office or the headquarters or Mr. Hoffa's room where the lawyers met and found as you came in, you would find Mr. Partin there by himself or with other people.

[fol. 3080] A. Yes, Mr. Hoffa had Room 742 and 740 and I had 744. In other words, it was one suite with two bedrooms, one on each side. I had the one bedroom in Room 744. Mr. Hoffa had Room 740 and 742 was the Iroquois Suite on the seventh floor of the Andrew Jackson Hotel.

And in response to your question, laying that setting, Ed Partin was in and out of the room and in the room when there were discussions with the lawyers and on one or two occasions it was a little table out front and Ed Partin would go in and out. He would sit out front and try to keep other people out.

Ed Partin was in and out and sat there at the table sometimes out at the small table on the outside at the round table and on the inside, and walked in and out while the discussions were going on.

Q. Had you known Ed Partin prior to this time?

A. No, I had not known Ed Partin prior to that time.

Q. State how he was introduced to you with reference to what he was doing or what he did or what his job was, did you know what he did, where he was from?

A. Ed Partin knew from me that I was a lawyer. Right from the very beginning. Ed Partin knew that I was the president and am president of Teamsters Local No. 985 in Detroit, but also knows from me—

Mr. Neal: (Interposing) Your Honor, I object. He said Ed Partin knows.

[fol. 3081] The Witness: I told Ed Partin from the very beginning—

Mr. Neal: (Interposing) Your Honor, Mr. Buffalino is a lawyer and he knows the difference from someone knowing and someone telling.

By Mr. Branstetter:

Q. Could I inquire, did he come to court day after day and see you participating in the trial during the time that you have stated?

Mr. Neal: Yes, Mr. Partin testified he knew that he was a lawyer and saw him in court performing. No offense meant, Mr. Buffalino.

The Witness: No offense, Mr. Neal. You and I will get along.

By Mr. Branstetter:

Q. Did you know what Mr. Partin's occupation was or what he did?

A. Yes.

Q. Did you know that his relationship was with a local union in Louisiana?

A. Ed Partin I knew that, but Ed Partin told me one night he was going to a union meeting over to the union headquarters and about 10:00 o'clock or 10:30 that particular night I don't know what night it was in October, November, December, that particular night, he called on the phone [fol. 3082] and talked—the phone in my room rang, Room 472. 474. And he said, "Bill, the FBI is following me."

Q. Now, this was Partin?

A. This is Ed Partin that sat on this witness chair. "The FBI is following me." I said, "Ed, where are you?" He said, "I am out to the union hall."

Mr. Hooker: We object to that.

Mr. Branstetter: I asked this witness about this specific thing.

The Court: Overruled.

The Witness: He said, "I'm out to the union hall and they are in the car in the parking lot outside." He said, "What should I do?" I said, "Ed, I can't advise you but there is a lawyer here that could." And Mr. Morris Shenker that particular night was there in Mr. Hoffa's suite discussing the case and so forth, and I called Morris Shenker, I said, "Morris, there is a business agent from a local union out in Louisiana somewhere and the FBI have been surveilling him. We have had the thought on it and so forth but the FBI has been surveilling him. And or surveilling us. But it looks like they are out to the local union right now."

Mr. Shenker got on the phone in my presence and had the discussion and he told him if so far as I am, "I am Morris Shenker and all you have to do is go about your business. You are conducting a union meeting if you are [fol. 3083] as you say you are, don't worry about it, and if

anybody questions you you tell them I'm your lawyer, Morris Shenker."

Mr. Reddy: We object to it, may it please the Court, what somebody else said.

The Court: Well, I don't see where it is material, let's move along.

Mr. Reddy: I don't see that it is material. He asked what Mr. Partin did.

By Mr. Branstetter:

Q. Now, do you know whether or not Ed Partin ate breakfast or lunch or had meals on many occasions with lawyers when Mr. Hoffa was present and the when the case was discussed?

A. I would say on several occasions he did, yes. When he was there when he was in Nashville, he went with the lawyers and Mr. Hoffa and did have dinner with us. Lunch or dinner or breakfast as the case might be. Excuse me.

Q. Excuse me just a moment.

The Court: All right.

By Mr. Branstetter:

Q. Mr. Buffalino, did you then know that Ed Partin was furnishing information to the United States Government?

A. Absolutely not.

Q. If you had known this, would you have had him help you prepare charts or participate as he testified he did? [fol. 3084] A. No, I would not have helped him or permitted him in any way to be near the seventh floor or anywhere.

Mr. Branstetter: No further questions.

The Court: All right. Anything else?

Mr. Branstetter: You may ask him.

Examination.

By Mr. Hooker:

Q. Mr. Buffalino, how long did you say you had been practicing law? Twenty-odd years?

A. I've been an attorney since 1942.
Q. Something over twenty years?
A. Yes, sir.
Q. About twenty years?
A. That's right.
Q. Do you know what Mr. Partin's education is?
A. No, I don't.
Q. Do you mean to tell His Honor that you were actually consulting with Mr. Partin, the witness here, about legal matters?
A. It was an interest that Mr. Partin had displayed in what I was doing and I was in a position that I had the information and I discussed it with him. I mean to tell you that and I mean to tell His Honor that I discussed it. He listened to the interviews that I had with truck drivers. He was present. He was a Teamster member so far as I [fol. 3085] was concerned and there was absolutely nothing there that so far as I was concerned he was a member of another local union and all the witnesses were to do was to tell the truth.

But Mr. Partin was present during the interrogation and during the preparation of the questions and answers and I gave the copies to the witness and I told him to read it and so forth, but all I want is your best and present recollection and all I want is what you tell me to be the facts.

Q. What was it, some set of questions and answers that you were turning over to these witnesses?
A. Mr. Hooker, I interviewed the witnesses.
Q. I understand.
A. And the interview, may I answer the interview, it was noted down, the question was written down by me. And an answer was written down as the witness would be answering and then I would dictate it to the girl or write it out in longhand and have it typed.

And once they were coming out I would have four or five copies made and sometimes the lawyer would say add this or don't ask this and so forth, you shouldn't do it. And

actually the witness had that sheet of paper and I believe the record will reveal that the witness answered yes I have read questions and answers.

Q. The witness had a sheet of paper that had the ques-
[fol. 3086] tions and the answers on it?

A. No, the witness had a question, had a sheet of paper or—

Q. (Interposing) I misunderstood you.

A. You might have misunderstood me, Mr. Hooker.

Q. I understood you to say that you wrote down the answers?

A. May I answer the last question? I would like to answer the last question. May I?

Q. Go ahead and answer it.

A. There was an interview between the witness and myself. I would ask the witness to add as to the facts I would ask him what his name was, his address, phone number, various information. And then what the various questions regarding the subject matter of the interrogation.

I would write this down as he was answering. And then I wrote it down and dictated it or wrote it in longhand in more legible form than it was in the initial stage.

I then in having it typed, then if it was more than one page and many times it was and I believe I may have a copy or two of them, and I would then have that stapled and Ed Partin helped me staple them and pass them to the other lawyers.

Q. What I understood you to say is that you had the questions written out. Right?

[fol. 3087] A. The questions that I thought that I might go on, yes.

Q. Then you took down the witness' answer?

A. What I thought his answer might be.

Q. And then you edited his answer by changing it into better language?

A. No, I didn't.

Q. That is what you said.

A. No, I didn't. Now, I asked the witness to edit his own statement.

Q. Oh, you had the witness after he made the answer to edit it?

A. If there are changes after it is typed. If there are any changes after it was typed, if there were any misunderstandings by me, in my notes as I dictated it, then I asked that particular witness to make the changes so that I would—there would be no misunderstanding as to what question as to what answer I was going to get.

Q. Then you had that re-copied and gave the witness the questions and the answers all typed out?

A. I gave him the questions and the answers as he gave them to me.

Q. And you say that Mr. Partin's connection to that process was that he helped you staple them together?

A. No, that wasn't the only contribution. He was present [fol. 3088] while I was entering, while I was interrogating them in the first instance, that is Number One. The other contribution was after they were stapled together he passed them out and while they were discussing it with the attorneys, Ed Partin was sitting at the round table in Room 740 at the Andrew Jackson Hotel.

Q. Did he ask any questions? Mr. Partin?

A. Did he ask any questions?

Q. Yes.

A. I don't recall that.

Q. And all of those questions and answers were in connection with the Test Fleet case as it has been called that was on trial in the United States District Court at Nashville at that time?

A. That I don't recall but I think I can give you some questions.

Q. Well, I say, wasn't it in relation to that case?

A. In relation to the preparation of the trial of that particular case at that time.

Q. That's right, now, did you have any discussions with Mr. Partin about any jury tampering?

A. I had no discussions at all with Mr. Partin about any jury tampering.

Q. You had no discussions with Mr. Partin about anything that relates to this case we are trying now?

[fol. 3089] A. What was that question?

Q. You had no discussions with Mr. Partin about anything that relates to this case we are trying here today in this court?

A. Well, the questions that are to be resolved are for His Honor to resolve what the questions are that are involved here.

[fol. 3090] Q. I am asking you if you had any discussions with Mr. Partin about any of the matters that are on trial here in this court?

A. You mean with reference to the indictment?

Q. No, sir. There wasn't any indictment then.

A. This particular indictment that was returned May 9th.

Q. Were any of the facts of this particular case, this case is about a case of jury tampering?

A. This indictment.

Q. Did you have any discussion with Mr. Partin about that?

A. This indictment was not returned until May 9th and I haven't talked to Mr. Partin, I don't believe since May 9th. I know that I went to New Orleans to help represent him in a case that there was an indictment. Mr. Partin at that time said to me he had certain things going and he was going to get some of his indictments dismissed and he had a case in—for a murder case, to the best of my recollection, in Alabama, at the time and he was telling me about that, but he had some in Baton Rouge that he had something cooking that he was going to have dismissed.

Q. Now, Mr. Buffalino, this is a very simple question. If you will, just answer it, and I will be through. Did you

have any discussions with Mr. Partin when he was in [fol. 3091] Nashville in October, November, and December of 1962 about any of the facts that are involved in this case we are trying now?

A. As to the facts, I don't know whether I had any discussion. I would have to just take all of the facts and start to analyze them and I could answer you that at another day, I will give you that answer in two or three days after I see what the facts are.

Q. You mean you can't now say whether you discussed anything with him about this charge of jury tampering? Can't you answer that now?

A. All I know is that there was no indictment at that time, the indictment was May 9th and I had my discussions with him in 1962.

Q. Well, did you have any knowledge of anything like that going on?

A. I had no knowledge at all, no knowledge whatsoever about anything like that going on.

Q. Did he help you staple any papers after that first occasion?

A. Well, he will never again help me staple papers, I will tell you that.

Mr. Hooker: I am sure of that. That's all.

Examination.

By Mr. Branstetter:

Q. Mr. Buffalino, Mr. Hooker asked you if Partin had ever said anything about the jury. I will ask you if he did [fol. 3092] not call you at one time or say to you at one time that he had an uncle or somebody that knew somebody on the jury and you told him to get out and never talk to you again?

Mr. Reddy: May it please the Court.

Mr. Branstetter: I am asking. He asked about it.

A. It wasn't an uncle, it was a friend of his in the Army, and—

Mr. Reddy: (Interposing) Just a minute, Mr. Buffalino. You know better than that.

The Court: Sustain the objection.

Mr. Reddy: Now, the Court sustained the objection.

By Mr. Branstetter:

Q. Let me ask you that in line with what Mr. Hooker asked you. Did you ever hear Partin himself mention something about relatives or relationship with a juror?

A. Partin had mentioned, it wasn't with relation to that. I have some recollection that Partin said something about a particular juror, I don't know which one, that he was in the Army with one and he was starting to suggest that maybe he should get in touch with that fellow that he was in the Army with, that maybe when he goes on his vacation he would be able to go in and live with the juror.

I said, "Look, I want to have absolutely nothing at all to do with any such discussion. Lay off that. We have a cinch case. This case is absolutely nothing. And then so [fol. 3093] far as I am concerned I suggest you just forget about anything like that."

Q. This is Partin that raised this question?

A. This is Partin.

Q. With you?

A. This Ed Partin, yes.

Q. Do you remember when the question came up in court in Nashville about jurors being replaced and discussions were had with reference thereto? Was Partin around and heard these discussions?

A. Yes, he was.

Mr. Branstetter: That's all.

Mr. Silets: I have a couple of questions.

Examination.

By Mr. Silets:

Q. You have read most of the transcript in this case presently on trial, have you not?

A. I have read it all.

[fol. 3094] Q. And you have read considerable testimony about FBI and other investigations going on during the course of the Test Fleet case?

A. Yes, the transcript of the record will also show in the Test Fleet case that I complained to the Court that there was surveillance of the lawyers and they were calling giving the numbers of my home and so forth.

Q. All right. This investigation by the FBI that was going on was at the same time that Mr. Partin was consulting with you and with other attorneys and being present while you were consulting with one another, is that not true?

A. That is exactly when it was going on.

The Court: All right. Anything further of this witness?

Mr. Reddy: Your Honor, I'd like the record to show that since Mr. Buffalino is not a counsel of record in this case that he was in the courtroom present all during the examination of Mr. Partin.

The Witness: My testimony would be no different.

Mr. Reddy: I would like, I would just like the record to show that.

The Court: There was no request for the rule.

Mr. Reddy: We didn't know he was going to take the stand or we would have requested the rule.

Mr. Branstetter: We had an agreement, I believe coun-

[fol. 3095] sel will recall, that possibly Mr. Durkin would be a witness but could stay and Mr. Buffalino would be a witness but could stay.

The Court: Mr. Buffalino, do I understand that you are an attorney and your office is where?

The Witness: Suite 500, Bennett Building, Wilkes-Barre, Pennsylvania.

The Court: And you are also president of a local Teamsters Union?

The Witness: Yes.

The Court: Is that—

The Witness: (Interposing) In Detroit, Michigan.

The Court: How do you maintain a law practice in Pennsylvania and be president of a Teamsters Union in Detroit?

The Witness: I have been special counsel for the Teamsters International Union over a period of years and my work takes me throughout the United States. When I was transferred into the military—while I was in the military service I married a Detroit girl, we have five children there, I made my home there and I have commuted between Detroit, Wilkes-Barre, Washington, and since my work has taken me throughout the United States, more particularly over the past six or seven years, six, seven, eight, nine years I have been all over the country and my work [fol. 3096] has been in connection with cases all over the United States.

The Court: Is there more than one local in Detroit?

The Witness: Certainly, yes.

The Court: Are you connected with the local that Mr. Campbell is connected with?

The Witness: No, no, Local 985. When I was 28 years old I started as an organizer. When I came out of the Army I was in the position that I wanted—I didn't know what I wanted to do, I wanted to orient myself and I didn't know whether I should go back to Pennsylvania or whether I should stay in Detroit, so I am in that position at the present time and I am special counsel to the International Union.

The Court: That is all.

The Witness: Thank you, Judge.

(Witness excused.)

Mr. Dale: Raise your right hand, please. Do you solemnly swear that the testimony that you will give in this case shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. Haggerty: I do.

Mr. Dale: Have a seat.

JAMES E. HAGGERTY, a witness called at the instance of [fol. 3097] the defendants, being first duly sworn, was examined and testified as follows:

Examination.

By Mr. Berke:

Q. Will you kindly state your name, please, sir?

A. James E. Haggerty.

Q. Would you mind stating your age, Mr. Haggerty?

A. Well, 63, near 64.

Q. Are you a practicing attorney in the State of Michigan?

A. I am.

Q. And how long have you been practicing law, Mr. Haggerty?

A. In my 41st year.

Q. Did you hold any positions with the Michigan Bar Association or any other honors that you have had since you have been practicing law?

[fol. 3098] A. Well, I have been president of the State Bar of Michigan in the year 1957 and '58 which is an integrated bar. And takes almost full time. I've been a director of the Detroit Bar Association. I'm a member of the American College of Trial Lawyers and a member of the International Academy of Trial Lawyers.

Q. Mr. Haggerty, where are your offices located?

A. In Detroit, Michigan.

Q. Do you have other attorneys associated with you?

A. Yes, I'm a member of a firm.

Q. Who is the head of that firm?

A. There are three of us that are head of the firm. I'm one of them, the senior partner.

Q. And how many junior partners do you have in addition to the three heads of the firm?

A. We have three junior partners and seven associates.

Q. Mr. Haggerty, did you represent Mr. Hoffa in the case known as the Test Fleet case at Nashville?

A. I did.

Q. How long have you been representing Mr. Hoffa or the International Union?

A. Well, in the last trip around, for four years. Since January of 1960. However, I've done work for Mr. Hoffa for many years before that.

Q. Mr. Haggerty, I will ask you if you arrived in Nash- [fol. 3099] ville sometime prior to the commencement of the trial?

A. My recollection is that I arrived in Nashville either on a Tuesday or a Wednesday before the trial commenced on Monday, October 22, 1962.

Q. When did you first become cognizant of this witness Ed Partin that they are discussing here?

A. I assume around within three or four days after the trial started. I didn't know his name. I didn't know what position he occupied. I knew nothing about him. I did because he was so persistently around, I did inquire I believe of Bill Buffalino, his name, and his identity. That was after about possibly three or four weeks.

Q. In connection with the trial of this case, did you have many officials and drivers and witnesses, members of Teamsters Union, that would come in and out of your office there at the hotel?

A. Well, they didn't come in. I didn't have an office. I worked in the bedroom. But they did come in and out and it was close to Mr. Hoffa's suite and that is true, there were a number of officials of Teamsters Union that did come in and out of there.

Q. Do you remember, Mr. Haggerty, whether or not Mr.

Partin sat in on any of your discussions about the strategy or the trial of this Nashville case?

A. I couldn't fix dates but the situation was this, oft-[fol. 3100] times in the evening in the living room off Mr. Hoffa's suite I did most of the direct and cross examination in that case and there would be a consultation between the attorneys and Mr. Hoffa. I would say that usually consisted of Dan Maher, sometimes Thomas Osborn, as I recall on all occasions Jake Kossman was there and most of the time Bill Buffalino.

There were other attorneys added from time to time. I think for a period of time Jacques Schiffer and I think on other occasions Morris Shenker.

And during those sessions we usually considered the strategy to be employed the following day and also selected who was to examine the witnesses for the most part and for the most part it was myself and various questions were suggested and various methods of approaching the examination was suggested.

Sometimes law applicable was discussed. And on quite a number of these occasions, I wouldn't attempt to mention the number, this man Partin was at a table.

You went into Mr. Hoffa's suite through a rather long hall from the corridor, and as you got in, there was a large round table as I remember and ofttimes this man Partin would be sitting at that table.

He was usually engaged in shuffling cards. I couldn't say the number of times that I have seen him there, but my best recollection would be that I have seen him more [fol. 3101] than half a dozen times.

Now, pardon me. He would not be there necessarily during the entire conference which sometimes lasted three or four hours. On other occasions he would be there during the entire conference.

Q. Mr. Haggerty, during the progress of the trial in Nashville, did you become aware of the government anticipating your strategy before it was even presented in court?

A. I voiced the opinion on more than one occasion to my cohorts that I was of the opinion that the room where we held the conference was bugged, for the reason that on several occasions, this is what prompted my train of thought along that line, on several occasions, something was designed to take the government by surprise, but it didn't work that way.

The government seemed to be, this is the way it appeared to me, to have advance notice and they met it in stride.

For instance, there would be a motion made or some point of law and the government was very well prepared either with a brief or Mr. Lewin would have all the books upon the table for Mr. Neal and Mr. Shaffer.

So, I thought there was a leak and I credited it, I credited it, I credited it to some sort of bugging device on the room where the conference was held.

[fol. 3102] Q. At any time did Mr. Partin tell you that he was reporting everything or anything at all with reference to the discussions to Mr. Sheridan?

A. No, sir. Further than that, for all practical purposes, I never had a discussion with Mr. Partin. To me he was somewhat in the way and I didn't pay much attention to him. I was busy and had my work and I didn't have time for idle talk.

Q. Was Mr. Partin there at the time witnesses were interviewed by other attorneys other than yourself?

A. I recall there was a large number of Teamsters mostly rank and file members, that came down from Detroit to testify in the defense of the case and the questioning of those witnesses was conducted by Mr. Buffalino and Mr. Osborn. I had no part in it.

And as I walked through the various rooms on one occasion at least, Mr. Partin was in a room where Mr. Buffalino was questioning a witness. Now, that is the limit of my knowledge.

Q. Mr. Haggerty, do you recall about how long it took to select a jury in that Nashville case?

A. My recollection is it took from a Monday, this is my best recollection, from a Monday to a Friday.

Q. Do you recall whether or not during the latter days of the discussion of the jury whether Mr. Partin was [fol. 3103] present and consulted and gave advice or listened to discussions relative to which jurors they thought might be best to serve on this case?

A. No. My best recollection is that on one occasion just one occasion, there was a discussion in reference to the jury and I was present and I might say that I didn't actively participate in the selection of the jury at Nashville, but I was present in Mr. Hoffa's suite in the living room of that suite, when it was being discussed by other attorneys and Mr. Partin was present.

[fol. 3104] Q. During the discussion, Mr. Haggerty, of the time when certain jurors were removed by the court, was Mr. Partin present during the discussions and conferences that you had about the composition of the jury after the jurors were removed?

A. He was present on one occasion. I can't recall. That happened twice and I don't recall if it was in the Paschal case or the Fields case, my best recollection was it was the Paschal case, he was present during such a discussion.

Mr. Berke: All right. You can ask him.

Examination.

By Mr. Neal:

Q. Mr. Haggerty, you don't know, of course, how hard my associates and I worked to prepare the Nashville case, do you?

A. No, but if you want my professional opinion, and I am considered a fairly good expert witness, I'd say you worked very hard, Mr. Neal.

Q. Thank you, Mr. Haggerty. You don't know how thorough we were, how thoroughly knowledgeable we were

with the possible issues that might arise in the case.

A. Well, Mr. Neal, I think you are a very good lawyer.

Q. No, I am not asking for that. You don't know whether when you made these motions we had anticipated them before the trial started?

A. No, I do not.

[fol. 3105] Q. And prepared on that?

A. No, I do not.

Q. It has been your experience that a lawyer, young lawyer, generally has to do that sort of thing, isn't that correct?

A. Well, there is some truth in that.

Q. He doesn't have the experience that an older lawyer has and can't rely on his agility quite as much.

A. No, and he has more energy, Mr. Neal.

Q. Now, would you tell me, Mr. Haggerty, I remember practically every day you all making motions for mis-trials based on the ground of publicity.

A. That's right.

Q. It got to a point that that was—, those were not entirely unexpected motions, wouldn't you say?

A. Well, I think a careful lawyer would be cautious that they would be coming on the following morning.

Q. Do you remember, sir, any particular motions that were—, other than motions that one might anticipate based on past experience in that case?

A. No, I do not this time.

Q. In other words, right now you can't think of a particular motion whereby you sought to take the government by surprise?

A. No, I honestly cannot, I can't recall one.

[fol. 3106] Q. You do remember making motions most every day based on prejudicial publicity?

A. Well, if I didn't make them someone else did.

Q. Somebody from the defense side?

A. Yes.

Q. And isn't it true that those were practically all the motions made in the morning?

A. Well, I couldn't say to that, I don't think that is accurate, Mr. Neal.

Q. Can you remember any others?

A. I would have to look at the transcript to give you an accurate answer. There has been a lot happened since that case and I have tried several other cases since then of long duration and I have a quality of mind that when I am finished with a case it's erraticated for the time.

Q. Thankful.

A. Yes.

Q. But you don't remember now you have this impression that the government was not as surprised as you thought they might be but you can't remember any particular circumstance surrounding that or any particular motion where you were surprised that the government might have known or you thought the government might have known.

A. Well, Mr. Neal, I don't know where the information come from but I do recall this instance, a certain question [fol. 3107] in Nashville while the jury was out was asked of the Judge and it required—, it required legal study and it required authority, legal authority, and I do know when the Judge wrote the question that Mr. Lewin had the law books and the right law books on the table.

Q. Well, you don't know.

A. And I don't know where that information come from.

Q. Isn't it true that Mr. Buffalino for one started calling Mr. Lewin "instant law", when something came up he would run out and come right back with a case instantly?

A. Well, Mr. Lewin is an excellent research man based on my observation of him. I don't know what Mr. Buffalino called him. I wouldn't call him "instant law" but I would call him an excellent research man.

Mr. Neal: Thank you, Mr. Haggerty.

The Witness: Any questions, Your Honor?

The Court: No questions.

(Witness excused.)

[fol. 3108] Mr. Dale: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Kossman: I do.

Mr. Dale: Have a seat.

JACOB KOSSMAN, a witness called at the instance of the defendants, being first duly sworn, was examined and testified as follows:

Examination.

By Mr. Branstetter:

Q. Would you state your name, please?

A. Jacob Kossman.

Q. Mr. Kossman—

The Court: (Interposing) How do you spell your name, sir?

The Witness: (Spelling) K-o-s-s-m-a-n.

By Mr. Branstetter:

Q. Would you state your professional connections or associations?

A. I am an individual practitioner.

Q. Member of what bar?

A. I am admitted to the Pennsylvania Bar and Sixth Circuit, Supreme Court of the United States.

Q. Where do you maintain your offices?

A. Philadelphia.

[fol. 3109] Q. How long have you maintained your offices in Philadelphia?

A. Oh, I guess for over 25 years.

Q. Have you written any papers or material for legal publications from time to time?

A. Well, occasionally.

Q. Were those published in law reviews or other types of legal publications?

A. I think some were.

Q. You don't need to be modest.

A. Well, some were.

Q. Were you an attorney of record in a case of United States vs. Hoffa and Commercial Carriers in Nashville, Tennessee?

A. I was.

Q. As such attorney of record, did you participate in pre-trial motions as well as the actual trial itself?

A. I did except that the actual trial was not confined until the very end with courtroom trial.

Q. Did you know—did you arrive in Nashville or were you in Nashville beginning on the 22nd, at least, of October, 1962?

A. That is correct.

Q. Did you know or have occasion to meet or see a Mr. Partin who has previously testified here?

[fol. 3110] A. Yes, I did, I saw him very often.

Q. In the Nashville area and around the courtroom?

A. I didn't see him around the courtroom but I saw him continually in the place where the International Teamsters kept what we considered was their office as well as our living quarters.

Q. Did you see him in and about the place where Mr. Hoffa maintained his individual room or office or the headquarters?

A. He was very often in Mr. Hoffa's room and he was continually, I think he was a doorman in a certain sense, he was continually present in the corridor that led to Mr. Hoffa's office and there were also girls who were typing in the back part of the corridor, the overflow from the office itself, he was there.

Q. Did you see him in this area that you described on few or many occasions between October the 22nd and December, some time in December?

A. Many occasions and I just reminded myself that I saw him on, I couldn't count the times, might have been 20 times, 15 times, down in the coffee shop when we had breakfast and, of course, we had legal discussions for the day.

The Court, I believe, started at nine o'clock in the morning and I remember I always wondered why he was there so early, now I know why.

[fol. 3111] Q. And did court in Nashville in the trial of this particular case, court opened at nine o'clock and adjourned at 1, is that correct?

A. Yes, sometimes maybe a few minutes more or maybe less.

Q. And would you see him then after the court sessions in the afternoon?

A. Well, it's really difficult for me to pinpoint time elements but I would have to say that speaking now from memory it seems to me he was there continually, in other words, I would see him morning, I would see him afternoon, I would see him evening, but it doesn't necessarily follow that he was there continually the same day. In other words, he might have been just in the morning. I didn't see him any more that day but the times that I saw him were various.

[fol. 3112] Q. And these times that you have a record of seeing him, were there discussions between counsel and the defendant about the particular case then in progress?

A. Oh, no question about it. And I must say this that he was telling the truth when he said that he heard me, embarrassing as it may be, your Honor, for me to mention it, that he heard me criticizing the other lawyers because he did hear me criticizing the other lawyers for Mr. Hoffa, specifically what they did that I felt was wrong and what should be done about it, no secret, so on that part he is right when he said that.

Q. Were there various documents, charts, papers, legal memos and other writings in and about these offices or

hotel rooms that you previously mentioned when this particular man was around?

A. I will put it to you this way, he had as much opportunity to have access to any piece of paper in there as I did but there's something else which I think I should volunteer to the Court, if I may, in reference to throwing light on the thing based on the questions that it seems from the questions involved that the emphasis has been that he only had an opportunity to learn things that went on during the trial, but it must—

The Court: (Interposing) I believe, Mr. Kossman.

Mr. Neal: We object to argument.

[fol. 3113] The Witness: It's hard to remain a witness.

Mr. Neal: I am sure.

The Court: Don't argue the case from the witness stand.

[fol. 3114] Q. Let me ask you this, was he in and about the hotel rooms, that you have spoken about, Mr. Hoffa's room, the headquarters room, the lawyers' room, during the period when certain jurors were being discharged from that particular jury in Nashville?

A. Well—

Q. And discussions of jury tampering?

A. I would say generally, yes. Generally he was during that particular period. Now, I cannot say specifically whether he was there on December 20th, but he was there previous to that without any question of two of the items involved in the counts in this particular indictment, namely, the Tippens count and—

Q. How about Fields?

A. And the Paschal count. The Fields count was December 20th. Now, whether he was there at that time I don't remember.

Q. Do you remember whether there were discussions between lawyers and Mr. Hoffa or others with reference to those proceedings then in progress in court with reference to the jurors you have mentioned?

A. Oh, yes, because there were papers that were being filed in reference to mis-trials as a result of the removal of some of the jurors like Paschal, and Fields. Now, as I say, whether he was there December 20th and there on, I [fol. 3115] don't have a memory. I don't even remember whether he was there when the verdict came in on December 20th.

Mr. Branstetter: You may ask him.

Mr. Hooker: No questions.

The Witness: Thank you very much.

Mr. Neal: We don't question Mr. Kossman's veracity. We just question his legal knowledge when he starts arguing a point of law.

The Witness: I shall reciprocate.

The Court: Anything further? (Witness excused.)

Mr. Branstetter: Yes, we would like to call Mr. Dave Previant.

The Clerk: You do solemnly swear that the evidence you give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

The Witness: I do.

The Clerk: Have a seat.

DAVID PREVIANT, a witness called in reference to the motion to suppress, having previously been duly sworn, was examined and testified as follows:

Examination.

By Mr. Branstetter:

Q. Would you state your full name, please, sir?

A. My name is David Previant.

The Court: Spell that, please?

[fol. 3116] The Witness: (Spelling) P-r-e-v-i-a-n-t.

By Mr. Branstetter:

Q. Mr. Previant, where do you maintain offices?

A. I have an office in Milwaukee, Wisconsin. In Detroit. And Washington, D. C.

Q. Would you give the name of your firm, please?

A. The name of the firm is Goldberg, Previant and Uelman.

Q. And would you state for the record what bar associations or courts you are admitted to practice before?

A. I'm a member of the Wisconsin Bar. The Michigan Bar. The Bar of the District of Columbia. And the Bar of the United States Supreme Court.

Q. Could I ask how long you've been engaged in the practice of law?

A. Since 1935.

Q. State whether or not you have written articles for professional journals?

Mr. Neal: Your Honor, is he being qualified as an expert? We object to that. May we get to the heart of the matter? What difference does it make whether he has written articles for legal journals or not?

The Court: Yes, let's move along.

By Mr. Branstetter:

Q. Mr. Previant, were you representing Mr. Hoffa in [fol. 3117] the United States versus Hoffa and Commercial Carriers in Nashville, Tennessee in October, 1962?

A. I was not an attorney of record in that case. I was to be called as a witness. I was present during most of the trial of that case and I did consult with Mr. Hoffa during that trial.

Q. Did you consult with him in a legal capacity as an attorney?

A. Yes, I did.

Q. Did you participate in the discussions of and the presentation of the case for trial for the defense?

A. Yes, I had discussions both prior to and during the course of the trial with respect to those matters.

Q. You heard, you were present here in court when Ed Partin testified earlier, is that correct?

A. Yes, I was.

Q. Mr. Previant, you were in Nashville, Tennessee then from October 22, 1962 through the latter part of December of the same year?

A. I think it was October 29th. I was not there when the jury was selected. I believe that I first came to Nashville after the jury was selected and when evidence was to be offered.

Q. And you remained there through the termination of the trial in December at least through December 20, 1962?

[fol. 3118] A. I was there most of the time. I was not there week ends.

Q. Now, did you have occasion to see this man Ed Partin during this period of time after October 29th in and about the office, the hotel rooms, and places where the attorneys were living in Nashville, Tennessee, in conducting this trial?

A. Yes, I did.

Q. Did you have an opportunity to and did you engage in conferences with other attorneys and with Mr. Hoffa with reference to that particular case from time to time?

A. Yes, I did.

Q. State whether or not Mr. Partin was in and about and present on many or few occasions during these discussions between attorneys with reference to the case.

A. I know that on some occasions he was in the room sitting at this table which has been described here. I know that frequently he was acting as Sergeant-at-Arms immediately outside the door of the room. I know that he was about the hotel very frequently.

[fol. 3119] Q. Did you know at that time that he was carrying information to Mr. Sheridan or any government official?

A. I did not.

Q. Had you known that, would he have been permitted to have been in or about the rooms when the discussions were taking place?

A. Of course not.

Q. Do you recall whether or not he was in and about the hotel, the rooms, the headquarters that were being used as conference rooms, during the time that certain jurors were being discussed, that is, with reference to that particular trial?

A. I wouldn't know with respect to the discussion of the jury panel at the beginning of the trial. I was not then in Nashville. To pinpoint any specific date or occasion, I don't know. I know that he was there. I know that there were discussions each time the occasion arose in Nashville which required such discussion. I know that he was always in, about, and around, as you say, the hotel and the conference room.

Q. State whether or not from your knowledge then he had access to the files, the rooms, the office, the location of the various individual lawyers, or the Defendant Hoffa in the trial? Was he in and out of those rooms?

A. He had ready access. He was more of the security [fol. 3120] man than the man who was to breach the security.

Mr. Branstetter: Thank you. You may ask him.

Mr. Hooker: Is that all?

Mr. Branstetter: Yes, sir.

Mr. Hooker: No questions.

Mr. Branstetter: Thank you.

The Court: Mr. Previant, are you and the other attorneys that are appearing for the first time in this record, are you gentlemen along with the other attorneys keeping me so busy on motions and everything?

The Witness: We are keeping you busy. I don't know how successful we've been, your Honor.

The Court: All right. That is all.

Mr. Branstetter: I would like to call Mr. Morris Shenker.

The Clerk: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

The Witness: I do.

The Clerk: Have a seat.

MORRIS A. SHENKER, a witness called with reference to the motion to suppress filed by the defendants, having first been duly sworn, was examined and testified as follows:

[fol. 3121] Examination.

By Mr. Branstetter:

Q. Would you state your full name, please, sir?

A. My full name is Morris A. Shenker. (Spelling) S-h-e-n-k-e-r. My office address is 408 Olive Street, St. Louis, Missouri. I have been engaged in the practice of law since 1932. I am a member of the Bar Association of Missouri. Admitted to practice in the various circuits in the United States and the United States Supreme Court.

Q. Would you state whether or not you had occasion to be in Nashville, Tennessee, during October, November, or December 1962?

A. If my memory serves me right, I first came to Nashville around the first part of December, 1962. I am satisfied I was not there in October. And I do not recall being there in November. I'm satisfied I first got there in December, 1962.

Q. Would you state what the purpose of your being in Nashville was?

A. Well, I was, I supposed to be to pick up anything that Jake Kossman left out. I was, I suppose you would call me a technical consultant on specific matters relating to the trial.

Q. You were there as an attorney for Mr. Hoffa?

A. Well, I was not an attorney of record, but I was there for the purpose of giving some advice and help with some [fol. 3122] of the legal propositions that arose in that case. It was a very complicated, very complicated, legal propositions that were involved there.

Q. And in this capacity, what I'm suggesting, you were advising Mr. Hoffa, the defendant, in that, at least one of the defendants, in that proceeding?

A. I was conferring with his lawyers. It was only one defendant in that case.

Q. Right. I believe the other one was out. Did you while there in Nashville, in this capacity have occasion to meet or know Mr. Partin, who previously testified here today?

A. I cannot definitely state because my function was, I came in for a day or two and then I left. And would come back in a few days. I made numerous trips, but they were not of long duration. But I do recall the incident that was testified to by Mr. Buffalino vividly and that is the incident when this gentleman apparently that is the same man called for some legal problems that he said the FBI have surrounded him about something that he was attending a union meeting and Mr. Buffalino thought I was versed with the constitutional rights of an individual or labor leader or any other person and he referred the call to me. I spoke to him about it. And gave him advice as to what his rights were.

I recall that he stated that he was at a meeting and that he didn't—that there were the FBI men and he didn't know [fol. 3123] whether he could conduct the meeting. Of course, I gave him advice on that.

And also what he should do about leaving and I told him that he was, unless they arrested him, he could go and come and go anyplace he wants to go or substantially in that manner.

[fol. 3124] Q. Now, do you recall ever talking to Partin again following that, do you have any independent recollection?

A. I have no independent recollection because I just have no recollection of it excepting I do recall that incident of giving advice on the telephone to this gentleman.

Mr. Branstetter: Thank you.

Examination.

By Mr. Hooker:

Q. Do you know who you talked to, Mr. Shenker, on the phone?

A. Only from the person identifying himself on the telephone, that is the only way. I never heard—I could not identify the voice, if that's what you mean, Mr. Hooker, no, I couldn't, I would have no—only from the identification and what Mr. Buffalino told me to speak to the man.

Mr. Hooker: That's all.

Mr. Branstetter: Thank you.

(Witness excused.)

Mr. Silets: Mr. Walter Sheridan, your Honor, and will the marshal please advise him to bring all of his records pertaining to this Witness Partin, all of his communications and records of communications.

Mr. Neal: Just a moment, your Honor. Mr. Silets doesn't tell the marshal those things. Certainly we are to determine whether any records are competent or not.

Mr. Silets: Well, that's for the Court to determine. If [fol. 3125] he doesn't have them in the courtroom, we have to recess and he has to come back in again.

The Court: Have Mr. Sheridan report to the courtroom.

Mr. Dale: Raise your right hand, please, sir. Do you solemnly swear that the evidence you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Sheridan: I do.

Mr. Dale: Have a seat, sir.

WALTER J. SHERIDAN, a witness called at the instance of the defendants, being first duly sworn, was examined and testified as follows:

Examination.

By Mr. Silets:

Q. State your name, sir.
A. Walter J. Sheridan.
Q. What is your occupation?
A. Special consultant, Department of Justice.
Q. Is that an appointed position?
A. Yes, sir.
Q. Is it civil service?
A. It is, I think, excepted civil service. In other words—
Q. (Interposing) What are your duties, Mr. Sheridan?
A. I am employed in the Criminal Division in the Orga-
[fol. 3126] nized Crime Section dealing mostly with labor racketeering.
Q. Are you under a chain of command under Mr. Hundley?
A. Under Mr. Hundley?
Q. Yes.
A. No, sir.
Q. Who is your immediate superior?
A. Mr. Herbert J. Miller.
Q. He is the Chief of the Criminal Division of the Department of Justice?
A. Yes, sir.
Q. Do you make reports to him of your activities?
A. Yes, sir.
Q. Mr. Sheridan, when were you assigned to do anything at all with respect to Mr. James R. Hoffa?

Mr. Neal: Your Honor, we object to that as being irrelevant.

The Court: Sustain the objection.

By Mr. Silets:

Q. Were you conducting or was an investigation conducted under your authority in the month of September 1962 of Mr. James R. Hoffa?

Mr. Neal: Your Honor, it's too broad. We respectfully request that it be limited to the matters involved in this motion.

The Court: Yes, let's talk about this man.

[fol. 3127] Mr. Hooker: Partin.

The Court: Partin.

Mr. Silets: Well, your Honor, I think I am entitled to determine whether he was conducting an investigation and if Mr. Partin was working for him.

The Court: Well, you may ask him about Mr. Partin.

By Mr. Silets:

Q. Do you know a Mr. Partin?

A. Yes, sir.

Q. When was the first time you spoke to him?

A. October 22nd, 1962.

Q. Now, prior to that date did you assign any agent to contact Mr. Partin?

A. Yes, sir.

Q. Which agent did you assign?

A. It isn't an agent, Mr. Silets, it was an attorney with the Department of Justice.

Q. What is his name?

A. Frank Grimsley.

Q. Mr. Grimsley is an attorney with the Department of Justice?

A. Yes, sir.

Q. In which division of the Department of Justice is he an attorney with?

A. Criminal Division.

[fol. 3128] Q. And was he to report to you directly or to Mr. Miller?

A. In this instance he reported to me.

Q. And when did you assign Mr. Grimsley to contact Mr. Partin?

A. Mr. Grimsley contacted me and told me he had been contacted by, I believe, a Mr. Daniels and told me that Mr. Partin had conveyed through Mr. Daniels—and I am not sure if it was Mr. Daniels—a desire to talk to Mr. Grimsley so I told Mr. Grimsley to go ahead and talk to Partin.

Q. Where is Mr. Grimsley's post of duty?

A. He operates out of both Washington and Atlanta.

Q. At this time can you fix a date for this?

A. No, I can't, it was probably early October, 1962.

Q. At this time was Mr. Grimsley assigned to Atlanta?

A. I am not sure of that.

Q. Do you know how Mr. Partin was aware of Mr. Grimsley's existence?

Mr. Neal: Your Honor, I object to this as being irrelevant.

The Court: Yes, sustained.

By Mr. Silets:

Q. You say that Mr. Partin told Mr. Daniels that he wanted to speak to Mr. Grimsley?

A. No, I don't think—I don't think Mr. Partin expressly [fol. 3129] stated that he wanted to speak to Mr. Grimsley, I think he indicated he wanted to talk to somebody from the Department of Justice.

Q. Who is Mr. Daniels?

A. He is an investigator for the county in Baton Rouge, the county prosecutor.

[fol. 3130] Q. Did Mr. Grimsley call you to get authority to speak to Mr. Partin?

A. Yes, he did.

Q. When did he call you?

A. Well, whenever this occurred, which was early October, 1962.

Q. Could you relate the conversation?

Mr. Neal: Objection to that, your Honor.
The Court: Sustain the objection.

Q. Did you give Mr. Grimsley any instructions with respect to Mr. Partin?
A. Just told him to go ahead and talk to him.
Q. About what?
A. About whatever Mr. Partin wanted to talk to him about.
Q. Were you aware of what he wanted to talk to him about?
A. I had some information about that, just secondhand what he had conveyed, what he had been told by Mr. Daniels that Partin wanted to talk to him.
Q. What was that?

Mr. Hooker: We object to that.
Mr. Neal: I object to that.
The Court: Sustain that objection.

By Mr. Silets:

[fol. 3131] Q. You had information that Partin wanted to speak to someone from the Department of Justice?
A. Yes, sir.
Q. Whose decision was it that he speak to an attorney rather than an FBI agent?
A. Well, I think it was just the flow of events. Mr. Daniels called Mr. Grimsley, Mr. Grimsley called me, so I told Mr. Grimsley to go ahead and talk to him.
Q. And to your knowledge did he talk to Mr. Partin?
A. Yes, he did.
Q. Did he report back to you the result of that conversation?
A. Yes, he did.
Q. And what did he tell you?

Mr. Hooker: We object to that.
The Court: Overruled. Sustain that objection. You are asking the question of what Mr. Grimsley told him.

Mr. Silets: I would like to know what Mr. Grimsley reported to him that Mr. Partin had indicated to Mr. Grimsley.

The Court: Sustain the objection.

Mr. Silets: Your Honor, this is going to the heart of the employment between the government and this individual.

The Court: Well, you are asking for thirdhand information, are you not, what Mr. Partin said to Mr. Grimsley?

[fol. 3132] Mr. Silets: I am asking him to relate what Mr. Grimsley told him.

The Witness: Well, it was a matter—

Mr. Hooker: (Interposing) Wait a minute.

The Witness: Excuse me.

Mr. Hooker: I understood your Honor to sustain the objection.

The Court: Yes, sustain the objection.

By Mr. Silets:

Q. Mr. Grimsley in fact reported to you, did he not?

A. Yes, sir.

Q. Did you give Mr. Grimsley any instructions?

A. Yes, sir.

Q. Would you tell the Court what those instructions were?

Mr. Hooker: We object to that.

The Court: Overruled.

A. Mr. Grimsley told me that Mr. Partin was to meet with Mr. Hoffa in Nashville. I told Mr. Grimsley that I would be in Nashville for the trial. I told him that he should tell Mr. Partin that if while in Nashville he became aware of any information indicating any illegal activity, any jury tampering, that he should call me. I told Grimsley to give him my phone number.

Q. Give him your what, sir?

[fol. 3133] A. Phone number.

Q. Now, to your knowledge did Mr. Grimsley carry out your instructions?

A. Yes, sir.

Q. Did Mr. Grimsley to your knowledge advise Mr. Partin what constituted these violations?

A. I don't know, sir.

Q. Pardon?

A. I don't know.

Mr. Neal: Your Honor, I object.

The Court: Sustained.

By Mr. Silets:

Q. Now, did you ever speak to Mr. Partin?

A. Yes, sir.

Q. When was the first time?

A. October 22, 1962.

Q. Was that in person or over the phone?

A. Over the phone the first time.

Q. Did he call you or you call him?

A. He called me.

Q. Will you relate the conversation?

A. Well, it relates to the subject matter of the case.

Q. Just answer the question, sir.

Mr. Hooker: We object to it.

[fol. 3134] Mr. Neal: He was just asking if it related to possible jury tampering. We don't want to go into the substance of this. This becomes a discovery procedure.

Mr. Silets: Your Honor, if the Court please, the first conversation occurred on October 22nd, that was just the first day of the trial. The issue at hand is precisely this, what instructions did this man have? I think we are entitled to know that to determine what his employment was or whether in fact he did—

Mr. Neal: He has got what instructions he had, they have been testified by the two witnesses.

The Court: What was the subject matter of the conversation?

The Witness: Jury tampering.

By Mr. Silets:

Q. Well, did you give him any instructions at that time, vis-a-vis, jury tampering?

A. I told him I would like to know this, if he heard any more along this line.

Q. Excuse me.

A. I told him that I would like to be advised if he heard any more along this line.

Q. Along the line of jury tampering?

A. Yes, sir.

Q. Did you advise him what jury tampering was?

[fol. 3135] A. No, I didn't.

Q. Did you tell specifically what kind of information you wanted him to pass on to you?

A. In that conversation I don't think I did.

Q. Did you at any time advise him of what kind of information you wanted passed on to you?

A. I don't think specifically I did, no.

Q. You relied upon his judgment?

A. Yes.

Q. Now, did he, in fact, pass information on to you from time to time?

A. Yes, he did.

Q. Now, did that information also constitute matters pertaining to the lawsuit that was then on trial?

A. Occasionally.

Q. Would you relate to the Court what those matters were?

A. Well, I talked to this man a number of times.

Q. How many times?

A. I don't know. When he was in town probably on a daily basis. The information, I'd say the vast majority of the information consisted of the comings and goings of people, there was also information which I would say, whether it was illegal or not, it was in my mind improper.

Q. Pardon me, what?

[fol. 3136] A. Improper.

Q. I don't follow you, sir. What do you mean "improper?"

A. Well, there was information that he furnished me that—I am not an attorney, I can't say whether in fact it was illegal activity that he was telling me about, but my judgment at the time was that it was at least unethical or improper. There was other information which was clearly indicating attempts to tamper with the jury. There was other information that related just generally to the trial and I think that was very minimal.

Q. Did you make a record of his conversations with you?

A. I made notes.

Q. Do you have those notes with you?

A. Yes, sir.

Q. Would you turn them over to the Court so the Court may inspect them?

Mr. Hooker: We object to that.

Mr. Silets: To determine whether what he related to you concerning the course of the trial—

Mr. Hooker: (Interposing) We object to that, if your Honor please.

The Court: Overrule the objection. As I understand you are asking that they be turned over to the Court for in-
[fol. 3137] spection by the Court in camera.

Mr. Neal: May the witness explain, your Honor, for your Honor's benefit, what he did with respect to notes he made?

The Court: Well, let's proceed with the examination and cross examination of the witness.

Mr. Neal: All right. This is understood, it's turned over to the Court only?

The Court: Yes.

Mr. Silets: Your Honor, I ask the Court to examine that with the judicial view of ascertaining whether any of the matters related therein is the passing of information from Mr. Partin to Mr. Sheridan concerning the course of the trial other than "jury tampering" and, if so, to ask the

Court to disclose that to the defense for proper examination on the motion to suppress.

The Court: All right.

Mr. Silets: Now, your Honor, would the Court like to review that?

Mr. Neal: No.

The Court: I think it would be appropriate to proceed with the examination. I will do this overnight, if necessary, to make any further examination in the morning you may do so.

By Mr. Silets:

[fol. 3138] Q. Mr. Sheridan, after taking these notes of the various matters referred to you on a daily basis by Mr. Partin did you convey any of that information to Mr. Neal?

[fol. 3139] A. Some of it, yes, sir.

Q. Now, what part of that information did you pass on to Mr. Neal?

A. All of the matters concerning what appeared to be efforts to approach the jury. Some of the matters which in my mind were improper or unethical.

Q. I don't think—

A. I don't think any matters relating to the trial with the exception if they fell within that category.

Q. Now, falling within that category, was the removal of certain jurors during the course of the trial. Is that correct? Jurors Tippens, Paschal, and Fields?

A. I don't understand your question.

Q. You said that you discussed with Mr. Neal matters which related to if I may paraphrase you, jury tampering efforts, and I'm asking you, sir, if that information you received from Partin which you passed on to Mr. Neal related to the removal of the jurors Tippens, Paschal and Fields?

A. There was a relationship, yes, sir.

Q. And that occurred during the course of the trial, did it not?

A. Yes, sir.

Q. Now, when you received these daily reports by Mr. Partin, did you discuss that matter with anybody else in the Department of Justice?

[fol. 3140] Mr. Neal: Your Honor, we object to that. As to what he may have discussed with the other members of the Department of Justice. I was the prosecutor in that case. It seems to me we need go no further than that. There should be the area of inquiry.

The Court: I would limit it to an attorney participating in the trial of this case.

By Mr. Silets:

Q. Did you discuss this matter with any attorney in the Department of Justice?

Mr. Neal: Now, Your Honor, that is just what you have ruled upon.

The Court: Yes, limit it to any attorney participating in the trial of this case.

By Mr. Silets:

Q. Would you answer the question, sir?

A. Well, are you limiting it to the attorney?

Q. The Court has limited the question to any attorney participating in the case.

A. Yes, I would have discussed it with Mr. Neal, Mr. Shaffer, Mr. Durkin, and Mr. Lewin and Durkin.

Q. Mr. Neal, Mr. Shaffer, Mr. Durkin and who?

A. Mr. Lewin.

Q. Mr. Lewin?

A. Mr. Lewin, yes.

[fol. 3141] Q. The gentleman back here?

A. Yes.

Q. Did you prepare reports concerning your activities with respect to these matters?

A. No, sir.

Q. Were you required to report orally to anyone concerning your activities?

A. Well, I did report to these gentlemen.

Q. Was there anyone in the Department of Justice you reported to?

Mr. Neal: Your Honor, you have already sustained that objection once.

The Court: Sustained.

By Mr. Silets:

Q. Mr. Sheridan, have you ever met with Mr. Partin during the course of the Test Fleet case?

A. Yes, sir, many times.

Q. How many times, sir?

A. I don't know.

Q. Who else was present when you met with him?

A. No one.

Q. You met him all alone?

A. Yes, sir?

Q. The notes that were handed up to the Court, do they reflect those meetings?

[fol. 3142] A. Yes, sir.

Q. Is it your custom and practice to make such notes?

A. I can't say it is my custom and practice. In this case I didn't. Sometimes I do and sometimes I don't.

Q. Were there any notes which you took which you destroyed?

A. No, sir.

Q. And all the notes you in fact took are in the possession of the Court?

A. Yes, sir.

Q. Were there any meetings when you did not take notes?

A. There may have been. I'm not sure of that.

Q. On those occasions when you met with Mr. Partin alone, where was the meeting held?

A. Sometimes in an automobile. Sometimes and—, on one occasion in a hotel lobby. Or a theatre lobby, excuse me. I think that is one or the other.

Q. Did you ever meet him in the courthouse at Nashville, Tennessee?

A. No, sir.

Q. Always in an automobile or in a theatre lobby?

A. I think once in a theatre lobby. Otherwise in an automobile.

[fol. 3143] Q. Did you ever meet him in the lobby of the Andrew Jackson Hotel?

A. No, sir. No, sir.

Q. Sir?

A. I did not.

Q. You did not?

A. No, sir.

Q. In whose automobile did you meet?

A. In my automobile.

Q. Was your automobile equipped with a recording device?

A. No, sir.

Q. Have you ever used a recording device in this matter?

Mr. Neal: Your Honor, we object to that.

The Court: Sustained.

By Mr. Silets:

Q. On those occasions when you met with Mr. Partin in the automobile, did you give him any instructions?

A. No, sir.

Q. Did you ask him to act upon information he was furnishing you in any particular way?

A. No, sir.

Q. Did he suggest courses of conduct to you?

A. No, sir.

[fol. 3144] Q. As a result of the information?

A. No, sir.

Q. He was merely reporting information to you?

A. Yes, sir.

Q. Did he on those occasions report to you the statements that were made by the Defendant Hoffa?

A. Some statements, yes, sir.

Q. And did those statements relate to the course of the trial of the lawsuit that was then going on?

Mr. Neal: Your Honor, that is a broad question in that case. I don't know if the witnesses understand it.

Mr. Silets: He is smart enough. He understands it, Mr. Neal.

Mr. Neal: I don't. He is smarter than I am. Relates to the trial?

The Court: Overrule the objection.

The Witness: There were comments which related to the extent that there might be an expression by Mr. Hoffa of how he felt the day was or how the day had gone in court. How Mr. Hoffa felt. When Mr. Hoffa thought the case was going to end. When he thought it was going to go to the jury, things of that nature.

[fol. 3145] Mr. Silets:

Q. As I understand it then these reports on the daily basis not only reported to you what you call jury tampering matters, but conversations of Mr. Hoffa? Is that right?

A. Some of the conversations with Mr. Hoffa were also covered in those other areas.

Q. And did he report to you conversations of Mr. Hoffa's attorneys?

A. Oh, maybe very small bits, yes.

Q. He did in fact, though?

A. I think there were comments by attorneys that he mentioned to me.

Q. And he reported those to you?

A. Yes.

Q. Now, does this gentleman remain in Nashville on weekends as well?

A. As a general rule, no, but I think—as best I can recall he did not. He was in and out of Nashville.

Q. Did you request him to remain in Nashville on any particular weekend?

A. No, sir.

Q. Did you ever request him to remain in Nashville for a stated period of time?

A. No, sir.

Q. Not even a particular day?

[fol. 3146] A. No, sir.

Q. Do you know what kept him in Nashville all this length of time?

A. Well, he was in and out. He would be in for a few days and then he would go back to Baton Rouge and then he would come back.

Q. Did the fact that he was furnishing information to you and the Department of Justice to your knowledge, was that a factor in his remaining in Nashville?

A. I'm sure it had some bearing.

Q. And that was to the bearing there was to keep him in Nashville for rather than return and stay in Baton Rouge?

A. Well, do you mean from my standpoint?

Q. Yes, sir.

A. Of course, he was furnishing information which was very valuable and I was naturally interested in obtaining it.

Q. I can't hear you, Mr. Sheridan.

A. I say he was furnishing information which was very valuable which did indicate attempts to influence the jury. It was very vital to us and I naturally was interested in receiving the information.

Q. And you were naturally interested in keeping him in Nashville?

A. And receiving the information.

[fol. 3147] Q. And keeping him in Nashville? Well, you don't have to answer that, Mr. Sheridan. I think it is ob-

vious. Mr. Sheridan, did Mr. Partin at any time furnish you a verbatim or substantially verbatim copy of conversations had by the Defendant Hoffa either with his lawyers or with anybody else?

A. No, sir.

Q. Do you know the man Mr. Partin, do you know if the man Mr. Partin ever used any recording device to record conversations of the Defendant Hoffa or any of his attorneys?

Mr. Neal: Objection, your Honor.

The Court: Sustain the objection.

By Mr. Silets:

Q. Do you know if Mr. Partin at any time made any effort to listen in to conversations between the Defendant Hoffa and any other party?

Mr. Neal: Could we identify the party, your Honor?

By Mr. Silets:

Q. Any party on the telephone?

A. Between the Defendant Hoffa and another party on the telephone?

Q. Yes, sir.

A. Not that I am aware of. Not that I can recall.

Q. Did he ever listen in on conversations of any of the [fol. 3148] attorneys participating in the suit on telephone conversations with another party?

A. No, sir, not as far as I know.

Q. Have you ever given him any instructions with respect to listening to telephone conversations?

A. No, sir.

Q. Did he ever report to you conversations that Mr. Hoffa may have had with other parties?

Mr. Neal: Your Honor, that is getting into substance now.

The Court: Sustain the objection.

Mr. Silets: Your Honor, I didn't ask the substance. I'm merely asking whether he made the report.

Mr. Neal: Well, this is just a discovery procedure. We will put the evidence on.

The Court: Yes, the question I believe is too broad. Sustain the objection.

By Mr. Silets:

Q. Did you have any other such informant as Mr. Partin working for you?

Mr. Neal: Objection, your Honor.

The Court: Sustain the objection.

By Mr. Silets:

Q. Do you know Mr. Fred Shobe?

Mr. Neal: Objection, your Honor.

[fol. 3149] The Court: Sustain the objection.

By Mr. Silets:

Q. Mr. Sheridan, did you personally ever conduct a surveillance of Mr. Hoffa?

A. No, sir.

Mr. Neal: Objection, your Honor.

The Court: He has answered.

By Mr. Silets:

Q. Did any agent or person on the payroll of the federal government ever conduct a surveillance of Mr. Hoffa during the Test Fleet case?

A. No, sir.

Q. The various FBI agents who have participated in testifying in this action, were they under your authority? At the time of their activities?

The Court: Well, that couldn't be material, Mr. Silets, to this issue.

By Mr. Silets:

Q. When was the last time you spoke to Mr. Partin?

Mr. Neal: Your Honor, I don't think that is relevant. When he last spoke to Mr. Partin.

The Court: Overruled.

The Witness: This morning.

By Mr. Silets:

Q. Did you discuss his testimony with him?

[fol. 3150] Mr. Neal: Now, your Honor, see why it is not relevant to this matter, this morning?

The Court: Sustain the objection.

By Mr. Silets:

Q. When was the last time you spoke to Mr. Partin in the year 1962?

A. December 1962.

Q. What day?

A. I'm not sure of that.

[fol. 3151] Q. Did Mr. Partin continue to furnish you information through the date of the verdict of the case?

A. Mr. Partin wasn't in Nashville when the verdict came in, no, sir.

Q. When was the last time he furnished you information?

A. During the case?

Q. Yes, sir.

A. A few days before the end of the case, I don't remember the exact specific date.

Q. Did he ever furnish you any copies of written documents?

A. No, sir.

Q. Did he ever advise you that he had access to copies of documents?

A. No, sir.

Q. Did you ever inquire of him whether he could have had access to such documents?

A. No, sir.

Q. Do you know if Mr. Partin worked with anyone in obtaining this information?

Mr. Neal: Your Honor, I object to that as calling for an incompetent answer and irrelevant answer.

The Court: Sustain the objection.

Q. Did Mr. Partin work with anyone?

[fol. 3152] Mr. Neal: That was the same.

Mr. Silets: Calls for a statement of fact, your Honor, rather than what he knows.

The Court: Sustain the objection.

By Mr. Silets:

Q. Have you ever authorized any payment to Mr. Partin?

A. No, sir.

Q. Has there been, to your knowledge, any money paid to Mr. Partin?

A. No, sir.

Q. Has any promise been made to Mr. Partin?

A. No, sir.

Q. Has Mr. Partin—he appeared before the grand jury?

A. Yes, sir.

Q. How do you know that?

A. I was there.

Q. In the grand jury?

A. No, sir.

Q. Where were you, sir?

A. I was in Nashville in the Federal Building on the same floor as the grand jury.

Q. Did you review Mr. Partin's testimony?

Mr. Neal: Your Honor, I object to that.

The Court: Sustain the objection.

[fol. 3153] By Mr. Silets:

Q. Mr. Sheridan, at the time the lawsuit entitled United States vs. Hoffa and Commercial Carriers was about to

begin, did you arrange for a number of FBI agents to be in Nashville during the course of the case?

Mr. Neal: Objection, your Honor.
The Court: Sustain the objection.

Q. What, if anything, did you do with respect to initiating an investigation of Mr. Hoffa prior to the beginning of the Test Fleet case?

Mr. Neal: Objection, your Honor.
The Court: Sustained.
Mr. Neal: If I have to stand up.
The Court: Sustain the objection.
Mr. Neal: Mr. Silets has clear and concise knowledge of what the issues are in this motion, certainly he can keep his questions at least within—it seems to me they will be objectionable but—
Mr. Silets: (Interposing) The proposition, your Honor, is very simple, it is obvious that prior to the outset of the case and prior to the time that anybody could have conceived that a jury was going to be picked or even the case was going to be tried in Nashville these people had already arranged for someone to elicit or initiate things involving jury tampering.
[fol. 3154] The Court: Well, let's reserve the argument. At this time proceed.

By Mr. Silets:

Q. Did Mr. Partin furnish—now, without telling me what information it was—did Mr. Partin furnish you any information which led to the removal of the Juror Tippens, Paschal and Fields?

Mr. Neal: Your Honor, I think we are getting into substance here now. I object.
Mr. Silets: Your Honor, I am not asking for the information.

The Court: Well, this gentleman wasn't the judge. I assume the judge is the one who removed the jurors, if any were removed. I would sustain the objection.

Mr. Silets: Is it to the form of the question, your Honor?

The Court: Well, obviously this gentleman wasn't in a position to remove any juror.

Mr. Silets: All right. Let me rephrase it.

By Mr. Silets:

Q. Did Mr. Partin furnish to you information which was later furnished to the Court which led to the removal of the Jurors Tippens, Paschal and Fields?

A. Mr. Partin furnished me information which I furnished to the FBI. The FBI conducted the investigation. [fol. 3155] As a result of the investigation the FBI conducted certain action was taken by the Court. Now, in other words, the information I got was related.

Q. Did you ever advise Mr. Partin to inform the Defendant Hoffa that he was furnished information to you?

A. I didn't hear that, sir.

[fol. 3156] Q. Did you ever tell him that he should advise Mr. Hoffa that he was furnishing information to you?

Mr. Neal: Now, that question is not only irrelevant, it's ridiculous. The Lopez case, all these cases say somebody don't tell a man, "Tell me if you are going to tamper with the jury I am going to the Judge."

Mr. Schiffer: Except that as far as the Defendant Parks is concerned we would like to expect the whole truth would be known, we would like to know whether this witness or the prior witness who testified on this issue for the government were giving honest answers.

The Court: Proceed.

By Mr. Silets:

Q. Did you give him any instructions with respect to what answer he should make if an inquiry was made of him whether he was furnishing information to you?

A. No, sir.

Mr. Silets: Now, your Honor, I would like the Court to obtain from the government all copies of the FBI reports which relate to information furnished by Mr. Partin which Mr. Sheridan now says was used later to present to the Court for the removal of these three witnesses (jurors). I'd like the Court to examine those and ascertain whether there is any information in there which is pertinent to the matters at hand and, if so, to furnish them to the defense [fol. 3157] so that they may be used in cross examination.

The Court: Well, gentlemen, you are going far afield here, are we not? We are talking about the witness, Mr. Partin. We are not talking about what the FBI may have done.

Mr. Silets: Your Honor, the issue is whether the information passed by Mr. Partin to the government was an illegal act. If it was illegally and unlawfully obtained then the matters that flowed from it are the very subject matter of the motion to suppress and they should be suppressed under the Fourth Amendment.

The Court: Well, the Court could not pass at this time on any and all testimony in the case.

Mr. Silets: Your Honor, this witness has testified that Partin obtained information which was given to him which he passed to the FBI which was the basis for the FBI investigation.

Now, if the effort on the part of Partin was illegal and if those reports show or may have some showing that it was illegal then the leads from which this investigation occurred is the basis—

The Court: (Interposing) That would be a matter perhaps to pursue after we have decided this motion, not before.

Mr. Silets: Your Honor, will all due deference to the [fol. 3158] Court, this is the very heart of the motion whether in fact those reports will disclose matters which would tend to establish that the information was illegally obtained.

Mr. Neal: Your Honor, how could the FBI reports determine whether—how can there even be an argument about whether this evidence was illegally obtained or not if the Defendant Hoffa called a man aside and gives him statements, something about jury tampering, how can that be illegally-obtained evidence?

The Court: Well, overrule the request at this time.

Mr. Berke: If your Honor please, could we have about five minutes where we can confer? We might be able to shorten this matter. We don't mind staying as long as the Court wants us to. We would like to have just a little time.

The Court: All right.

Mr. Branstetter: Could I suggest, may it please the Court, there may be a witness that will not be able to get here this afternoon, Mr. Marr, he is an attorney in Washington, D. C., he is not available now and this matter came up all of a sudden and there was no way we could anticipate him. I think we would want him here to testify, I am sure he could not get here until in the morning.

Mr. Neal: Your Honor, we want to finish this matter [fol. 3159] and get on with the case. We can take Mr. Marr's testimony at lunch time tomorrow or something else. Let's go on with the hearing and we suggest—

The Court: (Interposing) Let's complete the hearing this evening. I will hear any request at the completion of it for anything further. Let's take five minutes, not more than that now, gentlemen.

(Thereupon, a recess was had.)

Marshal Mansfield: All parties have been told, your Honor.

The Court: All right, let's have the defendants and their attorneys notified again that we are ready to proceed.

Gentlemen, we have been in recess for ten minutes. Unless the attorneys for the defendants appear within two minutes the Court will terminate this hearing.

Mr. Brown: I understood they were outside.

The Court: Well, the Court has sent word to them five minutes ago to report to the courtroom.

Gentlemen, I regret the necessity of going beyond the usual adjournment hour but I feel that in consideration for the jury in the case that we should attempt to complete the matter this evening on this motion.

By Mr. Silets:

Q. Mr. Sheridan, do you know Fred Shobe?

[fol. 3160] Mr. Neal: Objection, your Honor, why is Mr. Schiffer doing—

Mr. Silets: (Interposing) This is Mr. Silets, Mr. Neal.

The Court: Sustain the objection.

Mr. Neal: I mean Mr. Silets.

Mr. Silets: You made a mistake, too. I'd like to offer proof by this line of questioning that Mr. Fred Shobe was working with Mr. Partin and that Mr. Shobe and Mr. Partin were acting illegally as will be disclosed by Mr. Shobe's testimony.

The Court: Well, overrule the objection, I mean sustain the objection to that.

By Mr. Silets:

Q. Did Mr. Partin deliver to you any recordings of conversations concerning Mr. Hoffa or Mr. Hoffa's lawyers?

A. No, sir.

Mr. Hooker: Object to that.

The Court: He has answered.

Q. Isn't it true, Mr. Sheridan, on the 4th of December, 1962, Partin informed you that witnesses were being interviewed and that they had written questions available?

A. Would you repeat that?

Mr. Silets: Would the reporter read the question?

[fol. 3161] Q. Repeat the question.

(Thereupon, the court reporter read back as follows:)

"Question: Isn't it true, Mr. Sheridan, on the 4th of December, 1962, Partin informed you that witnesses were being interviewed and that they had written questions available?"

The Witness: There was an occasion when Mr. Partin told me that witnesses were being interviewed by Mr. Buffalino and that they had questions and answers and he was going over them.

Q. He did advise you of that?
A. Yes, sir.
Q. Did he tell you who they were?
A. I knew who they were, I think.
Q. Did Mr. Partin tell you who they were?
A. I don't think he knew who they were. I am not trying to be evasive. He told me they were a group of people, I knew, I think, at the time, truck drivers were being placed on the stand as witnesses and—
Q. (Interposing) Did he furnish to you a copy of those questions?
A. No, sir.
Q. Isn't it also true that Mr. Partin advised you that on December 5, 1962, that the attorneys were going to cover [fol. 3162] the Hoffman hearings?
A. I don't think so, Mr. Silets.
Q. Would your notes disclose that if it were the fact?
A. They may. I'm not sure. I don't recall that.

Mr. Silets: That is all, your Honor.
The Court: All right. Any further examination of this witness?
Mr. Berke: If your Honor please, I would like to reserve further cross examination until the Court has had an opportunity to read the statements that Mr. Sheridan has given to the Court and we would like to ask the Court representing the defendant who was interested in the proceedings in Nashville, and of course interested in the proceedings here, for an opportunity to see the statement in order

that we can cross examine this witness further on it. I know it will take the Court some time.

The Court: After the Court has read the notes, if there is anything there that the Court deems appropriate to make available, I will do that and you will be permitted to make any cross examination on that. But let's proceed now if you have any further cross examination, let's do so, or any further examination.

Mr. Berke: Well, if your Honor please, until we can get these statements or until we can get the FBI reports rela-
[fol. 3163] tive to this particular investigation, we do not have any further cross examination. I think that is what the Court wants to hear.

The Court: Yes.

Mr. Neal: But your Honor understands that we are—this is not the normal reservation of cross examination that we have heard here?

The Court: Yes. You are reserving only cross examination or examination with regard to any matters the Court may deem to be appropriate and to be made available out of the notes.

Mr. Berke: All right, your Honor.

Mr. Haggerty: May I call your Honor's attention in reference to the Defendant Hoffa, different considerations are involved here with Mr. Hoffa as compared to the other defendants.

Mr. Hoffa was on trial alone in Nashville. His rights involving these counts here involved. The counts springing from the Nashville case. So he is in an entirely different position than the other defendants.

The Court: All right, Mr. Haggerty, I will be glad to hear you on that, but let's complete any further offer of testimony in this case. If there is nothing further with this witness from either side—

Mr. Neal: (Interposing) Yes, we have a couple of ques-
[fol. 3164] tions, your Honor.

Mr. Berke: Of course, not at this time, your Honor.

The Court: Yes, sir.

Mr. Neal: We made it plain and the government objects

to any reservation. I think the Court has made that plain, too?

Mr. Berke: Well, the government may object but we certainly would like to reserve that and give the Court a chance to—

The Court: (Interposing) I sustained that. I understand that there is no further examination of this witness by the defense unless the Court desires to make available to the defendants the notes.

Mr. Silets: Of course, our position is, your Honor, under all circumstances, the Court should turn those notes over.

The Court: All right.

[fol. 3165] Examination

By Mr. Neal:

Q. With respect to those notes, Mr. Sheridan, how was that done? Did you attempt to make a substantially verbatim statement or notes of what the witness Partin told you?

A. No, sir.

Q. How did you do it?

A. Well, if he called me or if I saw him, I would just make cryptic notes of the high points. As I usually do, of the conversation we had.

Q. In other words, you might put down one word that might be five minutes of conversation?

A. It could be.

Q. Well, did that happen frequently?

Mr. Berke: If Your Honor please, even though this is not in the presence of the jury, we still don't think they would be entitled to just lead the witness.

Mr. Reddy: Yes, he is their witness, Your Honor. We are cross examining him.

The Court: I said overrule the objection.

Mr. Berke: Even if we did put him on, if Your Honor please, this is a hearing and this is a government witness, if Your Honor please.

The Court: All right. Overrule the objection.

By Mr. Neal:

Q. Would you answer the question, Mr. Sheridan?

[fol. 3166] A. My manner of taking notes in this instance was either during my conversation with Mr. Partin or after my conversation with Mr. Partin, I would make cryptic notes which to me were meaningful about our conversation.

Q. Could you give us an example of that? You say it was not substantially verbatim?

A. Well, for instance—

The Court: Well, now, gentlemen, let's don't go into the substance of any notes at this time.

Mr. Neal: I am not going into the notes, Your Honor.

By Mr. Neal:

Q. Could you give us some other example in the pertaining to the notes at all so we will know what not substantially verbatim means to you?

A. Well, a theoretical example, would be, Mr. Partin may have said, "Joe Blow is here" and I might have put down "Joe Blow". Or he might have said with reference to somebody else, what they were doing and I might just put down the name or the name and a verb.

Q. In any event these notes were very cryptic notes of the total conversation?

A. They were.

Q. And in no event substantially verbatim or anything close to it?

[fol. 3167] A. No, sir.

Q. Now, were these all the notes that you had? These are all the notes you made at the time you spoke and he spoke to you?

A. Yes, sir. Yes, sir.

Q. Mr. Sheridan, I believe you testified that any information given you by Partin was substantially all relating

to jury tampering or things you considered improper, if not jury tampering?

A. Most of it, yes.

Q. Is that correct?

A. Or the comings and goings of people.

Q. Comings and goings of people?

A. Yes.

Q. Now, with respect to the statements you made that you have heard that some witnesses had questions and answers, was that something to the effect that Mr. Buffalino had written out the witness' questions and answers and told him to memorize them?

A. That was my understanding.

Q. That was what you were told?

A. Yes.

Mr. Neal: That is all.

Further examination.

By Mr. Silets:

Q. Mr. Sheridan, I think it might be useful for the court [fol. 3168] if you gave the Court some more illustrations of those cryptic notes and how you could decipher them.

The Court: Gentlemen, the Court has the notes. I can't see why we should go into it.

Mr. Silets: Your Honor, I think that is very pertinent subject matter because this gentleman said if Joe Blow was there he would put down Joe Blow. Well, that indicates the type of notes he was recording and the kind of information that was being received from Mr. Partin.

The Court: Well, the Court has the actual notes and can see them without taking hypothetical examples that are not in the case.

By Mr. Silets:

Q. Mr. Sheridan, are these the only notes that you have?

A. Yes, sir.

Q. Were they transcribed?

A. Not transcribed. There have been modified notes typed from these.

Q. Where are they?

A. I have some of them here in the building.

Q. Have they been given to the Court?

A. No, sir.

Q. Well, could I call upon the government to give the Court all of the notes?

[fol. 3169] Mr. Neal: Now, just a moment, Mr. Schiffer. Let me—, may I inquire—

Mr. Silets: I am not Mr. Schiffer, Mr. Neal.

Mr. Neal: Mr. Silets, I guess there is just something about you Mr. Silets that reminds me of Mr. Schiffer.

The Court: All right.

Mr. Silets: I didn't get the government's response, Your Honor. Are they going to turn over those to the Court?

Mr. Hooker: Not unless the Court directs us to. We don't think that they are proper to be turned over at this time.

The Court: Let's see what we are talking about first. Did you ask—

Mr. Neal: May I inquire a couple of questions, Your Honor?

The Court: All right. All right.

By Mr. Neal:

Q. Mr. Sheridan, tell us about these subsequent notes you are talking about, just tell us what you did.

A. Well, from these notes I dictated, which were typewritten into typewritten form, some of the material that is in the notes.

[fol. 3170] Q. Some of the material in the notes—how long was this after the trial of James R. Hoffa was concluded in Nashville?

Mr. Silets: Objection, your Honor.

A. Considerable.

Mr. Silets: There is no—your Honor, Mr. Neal, of course, is assuming that it was after and now he is asking how long after. I think there's nothing established that it was after at all.

Q. Was it after at all?
A. It was quite a while after.
Q. Quite a while after. Well, how long after?
A. Six or seven months.
Q. Six or seven months after?
A. Yes.
Q. And you are talking about notes now that you made during the course of trial?
A. Well, these are the notes that were made during the course of the trial.
Q. Yes. Six or seven months then?
A. They were reduced to typewritten form, some of them.
Q. Some of them?
A. That's right.

Mr. Neal: How, your Honor, we have no objection to [fol. 3171] turning them over to the Court. I want to point out—

The Court: (Interposing) The Court will reserve that matter.

Q. Does the Court now have all of the notes you took at the time of this event?
A. Yes, sir.

Examination.

By Mr. Silets:

Q. Mr. Neal, your testimony is that you made a cryptic note—excuse me, Mr. Sheridan.
A. Mr. Sheridan.
Q. It is a little bit touchy. Mr. Sheridan, you said that you made a cryptic note. For example, to use a hypothetical expression, if Joe Blow was there you would say, "Joe Blow"?
A. Yes.

Q. When you transcribed or had transcribed from those cryptic notes into a typewritten form the matters that now are being discussed, did they accurately reflect and expand upon the information which you term as cryptic notes?

A. Well, it was done in two ways, really, one, it was just a copy of the cryptic notes themselves and that wasn't done for all of the notes. In some instances I dictated the sum and substance of what was imparted and was reflected by the cryptic note.

Q. In other words, you have put into a narrative form [fol. 3172] the matters which are reflected by your cryptic note or, for another illustration, if you had taken a shorthand note this would be an expansion of the same analogous situation of a shorthand note into the facts that were related to you?

A. In some instances, yes.

Mr. Silets: Now, your Honor, I think then there is clearly no doubt that those notes should also be turned over, no different than a shorthand reporter taking down a few things in shorthand or a note of this man being taken down and he said, "Joe Blow"—

The Court: (Interposing) What is the objection to the government making those available?

Mr. Neal: To the Court, your Honor?

The Court: To the Court.

Mr. Neal: No, we have no objection to making them available to the Court.

The Court: Let's make them available to the Court.

By Mr. Silets:

Q. One further question, Mr. Sheridan. To your knowledge did any of the FBI reports that were filed by agents in this matter reflect your notes or information from your notes?

A. I have no first-hand knowledge of that.

Q. Do you have any knowledge?

A. Well, I would almost on a daily basis furnish information to the FBI based on information I received from Mr. [fol. 3173] Partin. I would imagine that the FBI made some reports of that. I do have first-hand knowledge, I am sorry, because I have received reports which did reflect information that I furnished the FBI which I in turn received from Mr. Partin.

Q. Now, Mr. Sheridan, in those instances when you say you have first-hand knowledge and have reviewed the FBI reports which contained information Partin furnished you and you furnished the FBI, did those reports in fact reflect you as the source of that information or Mr. Partin?

A. They reflected me as the source.

[fol. 3174] Q. But not Mr. Partin.

A. They reflected that I furnished information that I had obtained from a source, from a confidential source.

Mr. Silets: Well, Your Honor, I think that I am going to have to call upon the Court to turn over the FBI reports as well.

Mr. Neal: Your Honor, what do the FBI reports have to do with this?

The Court: I will reserve that. Proceed.

By Mr. Silets:

Q. To your knowledge, after having examined the FBI reports, is there anywhere reflected that the information was originally obtained from Mr. Partin?

A. No, sir.

Mr. Silets: I have nothing further.

The Court: All right.

Mr. Branstetter: May it please the Court, in light of the Court's ruling with reference to possible recordings we would respectfully request of the Court to reconsider that after checking the Lopez case.

The Court: All right. Any further matters in connection with your offer of proof? If there are no further matters on

the offer of proof at this time I will hear argument of counsel.

Oh, you may be excused, Mr. Sheridan. (Witness excused.)

[fol. 3175]

COLLOQUY BETWEEN COURT AND COUNSEL

The Court: I will hear argument of counsel, particularly citations of authority that would be helpful to cite any authority that you desire to the Court.

Mr. Silets: Could we have the evening to furnish the Court with citations?

The Court: Yes, I want anything you have this evening and if you find other matters overnight I will let you present those to me in the morning but I want anything you have now at this time.

Mr. Silets: Well, I think that perhaps the most important thing is those three cases that Mr. Neal keeps citing, which I am not quite sure are in favor of the government, the Caldwell case, which is a reversal of a decision of the first Hoffman case 185 Fed. 2d and the Lopez decision.

The Court: All right.

Mr. Neal: Your Honor, may I—

The Court: (Interposing) Let me hear from one at a time. Mr. Silets, what do you contend those cases are authority for, what proposition do you contend they are authority for?

Mr. Silets: Your Honor, the proposition—

The Court: (Interposing) Do you have the citations to them again? I think I took that down.

Mr. Silets: Yes, Caldwell 205 Fed. 2d 879, Coplin, I have got it 191 Fed. 2d 749, I think there's another Copeland [fol. 3176] which is in 185 Fed. 2d.

The Court: Yes, there is.

Mr. Silets: Does Your Honor want that citation?

The Court: 185, I have it somewhere in my notes, I recall.

Mr. Silets: These cases defense—

The Court: (Interposing) There's two cases you cited. Do you have any further?

Mr. Silets: Yes, the Lopez decision, I think that is in—

Mr. Neal: (Interposing) That's 10 Law Edition, Your Honor, I don't know the page but it can be found (Spelling) L-o-p-e-z, I think.

Mr. Silets: It's in the October term of the Supreme Court, Your Honor, or May of 1960.

Now, Your Honor, the position is essentially that I hope to expand upon this tonight with research that these activities on the part of Mr. Partin constituted an illegal activity because it interfered with the course of the trial of the United States versus Hoffa and that as a result of that illegal activity any leads that were obtained therefrom which resulted in the obtaining of evidence which may be presented in this case was in fact evidence obtained through an illegal source and in itself inadmissible.

The Court: All right.

[fol. 3177] Mr. Neal: All right. May the government just point out its position, Your Honor.

The Court: All right.

[fol. 3178] Mr. Neal: In the first place, your Honor, the Caldwell and Coplin cases which your Honor will remember were first cited by the government. Both stand for the proposition that—

The Court: (Interposing) Let me see, Mr. Branstetter, you referred several times to a case in your examination. Was that the Caldwell case you had in mind?

Mr. Branstetter: It was the Caldwell case, yes, may it please the Court, and you have that at 205.

The Court: Yes, I have that.

Mr. Branstetter: And at Page 881 particularly.

Mr. Neal: May it please the Court, the Caldwell and Coplin cases stand for this proposition and some language, and the language in both cases make it clear that if, if there is a violation of what is called the Sixth Amendment Right, the right to the effective assistance of counsel, that is if

the trial strategy, trial tactics, all of those things, the communication between attorney and client with respect to the trying of a case, your Honor, and this is most important, if this right is violated with respect to a particular case, a conviction in that case may not be allowed to stand.

But, your Honor, that applies to that very case because it is the violation of the right to the effective assistance of counsel, your Honor. That is the only right involved. Now [fol. 3179] what effective assistance of counsel is involved there? The particular case with respect to which the effective assistance of counsel has been infringed or invaded. Not a trial, your Honor, that results from illegal activities arising out of the trial out of that first trial.

And I point out, your Honor, this is what Caldwell and Coplin both say, I am reading from Page 758.

"We think it further true that the right to have the assistance of counsel is so fundamental and absolute that its denial invalidates the trial at which it occurred."

At which it occurred.

Your Honor, that is the right. If there is any right involved here, and, of course, we don't—may I point out to your Honor—

The Court: All right, well, I understand your position. The main thing I want to do is get the authorities tonight.

Mr. Neal: Will the Court just give me a couple more minutes, your Honor? This is a very, very important matter to the administration of justice to the government in this case and the United States as a whole.

The Court: I would prefer, Mr. Neal, to get the authorities, read the authorities, and then if the Court desires to hear further argument on it we will do so in the morning.

[fol. 3180] Mr. Neal: Could I point out one more thing?

The Court: All right.

Mr. Neal: We have given you the Thomas case. We have given you the case from the Sixth Circuit, Lopez case.

[fol. 3181] Your Honor, just take this example, if attorney and client are discussing matters within the presence of a third party getting ready for trial, and they, let's say, dis-

cuss jury tampering, that third party has got an obligation to report that to the government. That won't be a violation of that atttorney-client privilege, your Honor, because attorney-client cannot engage in a violation of the law and still maintain the attorney-client privilege.

I would like to cite one more case to your Honor, United States versus Lebron, 222 F. 2nd, 531. Second Circuit. Certiorari denied, 350 U. S. 876.

Mr. Reddy: Did your Honor get the Thomas citation?

The Court: I am not sure whether I did. I didn't get it the last time.

Mr. Reddy: It went up from our district, Judge Taylor's Northeastern Division. 303 F. 2nd, 561.

The Court: All right.

Mr. Silets: Your Honor, there is one other proposition.

Mr. Neal: We have one more case, your Honor, Wellman, did your Honor get that when we first gave it to you?

The Court: Yes, sir, I have got a Wellman case. If you have the citation again, let me have it.

[fol. 3182] Mr. Neal: Wellman versus United States, 222, or 227 F. 2nd, 757, at page 770. Sixth Circuit. 1955. It was vacated on other grounds, 354 U. S. 931.

The Court: All right.

Mr. Neal: Your Honor, let me point out one other thing, when this Witness Partin is through testifying, it will be clear that the matters about which he testified would not arise from any attorney-client privilege and, therefore, they are not the fruit of any Sixth Amendment violation. In other words, this is just—pose for a minute, your Honor, there were Sixth Amendment violations, the matters with respect to which he will testify will not be those matters.

We don't care about trial tactics in the least in this case here, your Honor. We are talking about information. Evidence. With respect to efforts to tamper with a jury in that case. So there would be no fruit of the violation.

The Court: All right.

Mr. Silets: Your Honor, there is one other matter. I did not participate in the Test Fleet case, but it is my in-

formation at that time that the District Judge had a secret hearing and there was turned over to him certain matters in a sealed envelope.

I don't know if this sealed envelope has been turned over to this Court.

The Court: This Court has no knowledge at all of any [fol. 3183] sealed envelope.

Mr. Silets: Your Honor, this is why I'm raising this proposition, it may be in fact, I don't know, that the contents of that sealed envelope were in fact matters related by this man Partin. Either by virtue of recording device or testimony that he may have given in secret.

Now, this may in fact relate to the issue of whether the matters which gave rise to this very lawsuit, the "jury tampering" of these jurors who were excused by that District Court Judge.

And as our counts in this case, whether the information which led to the Court excusing those jurors, and which may have been presented to the Grand Jury returning this indictment was illegally obtained.

Now, I don't know, no one has ever known. But since now we're in a motion to suppress, it seems to me incumbent upon the Court to examine the contents of that envelope and in the light of these arguments to ascertain whether the information therein contained was or could have been obtained illegally and if so whether that information gave rise to any of the investigation or evidence which has been put in in this case.

[fol. 3184] Now, if the Court has examined—, does examine that we would like to have leave to file a brief on wire tapping and recording devices to show that that kind of information is certainly not admissible evidence and any leads obtained therefrom also indicate the incompetency and inadmissibility of such evidence.

The Court: All right.

Mr. Silets: I think if I may, Your Honor, if I may say this, Your Honor, in all deference to the Court, that this should be done before any decision is made on this motion to suppress.

Mr. Neal: Your Honor, we have no objection to turning the matter over. We have an order here signed by Judge Gray and Judge Miller permitting the United States attorney, Elmer Disspayne. Marshal, United States Marshal. I am pretty tired. United States Marshal, Elmer Disspayne to turn that over either to the government or to the court. Now, if defense counsel want it turned over to the court—

The Court: Quite frankly, gentlemen, maybe it is the late hour, I'm just not familiar with what you are talking about. It seems to me we are getting off the issue before the Court. All right, anything further this evening? If there is nothing further, let's adjourn court until nine o'clock tomorrow morning.

(Thereupon, at 6:45 o'clock p. m., court was adjourned until nine a. m., February 5, 1964.)

[fol. 3186] February 5, 1964

(Thereupon, pursuant to adjournment from February 4, 1964, court was in session, in the absence of the jury.)

Mr. Berke: If your Honor please, we have an additional brief we would like to submit.

The Court: All right.

Mr. Berke: If your Honor please, we also have one short witness that we flew in from Washington that we would like for the Court to hear this morning.

The Court: All right.

Mr. Dale: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Maher: I do.

DANIEL B. MAHER, a witness called at the instance of the defendants, being first duly sworn, was examined and testified as follows:

Examination.

By Mr. Berke:

Q. Please state your name, sir.
A. My name is Daniel B. Maher (spelling) M-a-h-e-r.
Q. What is your age, Mr. Maher?
A. Age?
[fol. 3187] Q. Yes.
A. Fifty-eight years old.
Q. And what is your profession?
A. I am an attorney.
Q. And how long have you been practicing law, Mr. Maher?
A. About 32 years.
Q. Where is your office located?
A. Washington, D. C.
Q. Mr. Maher, I will ask you if you were counsel of record in the so-called Nashville Test of Fleet case that was tried in Nashville?

Mr. Neal: The government stipulates that he was, that he was one of trial counsel.

By Mr. Berke:

Q. Mr. Maher, do you know Edward Partin?
A. I do.
Q. Do you recall when you first became acquainted with him and under what circumstances you became acquainted with him?
A. I became acquainted with Mr. Partin a day or two before the commencement of the trial in Nashville.
Q. All right. Do you remember the circumstances under which you became acquainted with him?

A. Well, we were in Nashville, Tennessee, and I saw Mr. [fol. 3188] Partin, I believe it was on the seventh floor of the Andrew Jackson Hotel.

I was introduced to him then by somebody, who it was I don't recall.

Q. All right. As you progressed into the trial of the case state whether or not Mr. Partin continued his close association there with the defense attorneys?

A. He did.

Q. Did you have any part in the selection of the jury, did you play any part in the selection of the jury?

A. I did.

Q. What, if anything, did you do in that respect?

A. I prepared the voir dire examination.

Q. Do you recall any incident with reference to the preparation of the voir dire examination as to whether or not Mr. Partin was present during that period of time and what, if anything, took place?

A. Mr. Partin was in and around the hotel. At the time that these voir dire examinations or drafts of questions for voir dire examinations were being distributed among the various counsel and the interested parties.

Q. Who helped prepare the voir dire examination questions?

A. Mr. Osborn.

Q. Was Mr. Partin there during the period of time that [fol. 3189] the questions were discussed and then distributed?

A. He was there when they were distributed, when they were discussed—whether he was there when they were discussed I can't answer that question, sir.

Q. What role, if any, did Mr. Partin play in the distribution of the questions, was he an errand boy or what?

A. Well, he was there while they were being distributed among counsel.

Q. Do you remember what Mr. Partin was doing subsequent to that and during the actual trial of the case, Mr. Maher?

A. Well, during the actual trial of the case Mr. Partin was in attendance upon the court virtually every day.

Mr. Partin was also in the headquarters and in Mr. Hoffa's suite virtually every day that the trial was in progress.

Q. Mr. Maher, did you know that Mr. Partin was furnishing information on an almost daily basis to Mr. Walter Sheridan?

A. I didn't know that as a fact, sir, but I did know that there was a serious security leak among the lawyers and among the other persons in attendance on the seventh floor of the Andrew Jackson Hotel and I brought that to the attention of other counsel on the first day of the trial.

It arose in this way: Mr. Osborn was conducting the [fol. 3190] voir dire and he would ask some 10 or 15 questions and there would be no objection and before Mr. Osborn got to the next question Mr. Neal would be on his feet with an objection.

Now, that happened on at least two or three occasions on the first day of the trial.

When that was concluded I said to all other counsel present, "There is a serious leak involved." I said, "Mr. Neal is no mind reader. We have got a serious security problem." There was a discussion as to where the leak might have come from.

[fol. 3191] At that time I made inquiry as to Mr. Partin. I asked who his identity was and what his relation was to the group that we were with. And either Mr. Buffalino or Mr. Hoffa said to me, "He is with us. He is all right."

Thereafter we had other security problems that prompted me to invoke the protection of Judge Miller, which I did, and he granted it sometime on the 3rd or 4th day of the trial.

Shall I state what they were?

Q. Yes, sir, I was going to ask you to state what that was.

A. On the second or third day of the trial I believe it was the second I was in my room at the Andrew Jackson Hotel and made a telephone call. I did not immediately

hang up over the phone and I had the sound or the lack of sound of an open wire. And then I heard voices in the background, and I said, "Who is this?" And they said, "This is the special operator." I said, "Who?" And then there was an immediate cutoff.

On the following day a group of lawyers and Mr. Hoffa and I were having lunch or headed toward lunch at a little Italian restaurant about half a block from the courthouse. The lawyers were in advance of Mr. Hoffa and Mr. Steinberg, who is with the Teamsters.

We were having lunch there and Mr. Steinberg and Mr. [fol. 3192] Hoffa came in and they identified a person who was seated at the next table as an FBI man.

Mr. Neal: Your Honor, aren't we going off the motion here? We object to it.

Mr. Berke: I don't think so, your Honor.

The Court: Overruled.

By Mr. Berke:

Q. Go right ahead.

A. In our conversation then we made it clear that we knew who this FBI man was and that he was an FBI man. He immediately got up and left.

On the following morning before Judge Miller at the first day of court, I invoked the protection of the court and stated exactly what I have told you now. I asked that the government be ordered from any surveillance of counsel or any interference with counsel or communication with their clients and Judge Miller did issue such an order from the bench. Now, shall I continue?

Q. Yes.

A. Thereafter, we were having nightly meetings in Mr. Hoffa's suite. There were counsel present, always Mr. Haggerty, myself, Mr. Osborn, Mr. Previant. On a few occasions Mr. Shenker I believe was there, Mr. Morris Shenker, and toward the end of the trial for a period of some three or four weeks Mr. Jacques Schiffer was also there.

[fol. 3193] We would discuss—but I'm a little ahead of myself though. Mr. Partin, to the best of my recollection, was there every night. On occasions there were other persons present, but Mr. Partin as I recall it was always present.

There were certain suspicious circumstances that arose in the mind of counsel, particularly the seemingly uncanny ability of the government to anticipate our moves.

For instance, we would have a line of questioning on one evening that we were going to go into and the government would be ready the next day with a memorandum opposing our particular evidentiary problem.

We then tried to determine whether our rooms were bugged. We were unsuccessful in finding anything in that regard. Then we considered that someone was listening outside in the hall. And it was about that time that Mr. Partin placed a desk just off the entrance to the elevators on the seventh floor, and he would stop people going in and inquire what their business was and what they wanted.

Thereafter, he moved that desk just outside of Mr. Hoffa's suite where all the conferences took place.

Then, we started getting into Mr. Hoffa's defense and we had a group of some 30 or 40 members of the Teamsters Union down from Detroit. They were there for the purpose of refuting an allegation in the indictment that Mr. Hoffa had betrayed his trust to the members of the union. [fol. 3194] That he was more interested in Test Fleet than he was in the members of the union.

[fol. 3195] These men were there for the purpose of showing that in all of the categories of drivers, namely local cartage or over-the-road or freight, from the time that Mr. Hoffa took over the union and during the period of indictment their wages and salaries had increased something like fifty percent in some cases and more than that in others.

In addition to that the fringe benefits and—such as health, pension plans and so forth, had increased immeasurably and in some instances they had not existed for the benefit of these members at the time that Test Fleet was operating.

Now, those witnesses were divided between, I believe, Mr. Osborn and Mr. Buffalino and myself. I took some of them into a room, interviewed them to try to condense their testimony because Judge Miller asked us if we could avoid cumulative testimony and narrow the testimony down to essentials, both in content and in numbers.

Mr. Partin was on the floor that night. He was actually in the room when I was interviewing these witnesses.

As the defense moved forward Mr. Partin seemed to be rather inquisitive as to the facts that we were going to develop and I remember that that was true in two distinct instances.

Number one, he was particularly anxious to know what the testimony of Mrs. Brennan was going to be and I told [fol. 3196] him that she had a complete interest in the company, that she was not in there as a dummy or nominee in any respect, she took an active part in the operation of the company, was fully familiar with all of the operations of the company and that all of these things could be documented and we would document them.

On another occasion he asked me alone on one occasion how Jimmy Hoffa was going to explain his investments in two or three stock companies that he had acquired stock. I said, "Well, that's easy. He got the money from his wife and he paid his wife back."

Now, it was either the following day or a day—, or maybe later that day—, that I was in Mr. Haggerty's room and Partin, who was always moving into rooms and coming in and talking with people, asked Mr. Haggerty something like this, "Have you got Jimmy's story as to," or, "What is Jimmy's story as to how he got this money for the investments?"

And Mr. Haggerty says, "I never discuss those matters except with my clients."

Now, that is as much as I recall at the moment of Mr. Partin's identification.

Q. Do you remember any particular occasion with reference to a phone call from Mr. Haggerty's room?

A. Oh, yes, yes.

Q. All right, sir. Will you tell the Court about that.

[fol. 3197] A. This was on the day before I invoked the protection of the Court. I received a call and it was transferred to Mr. Haggerty's room and I took the call there and the nature of the communication was such that I wanted to make another call immediately, so I didn't hang up the telephone and I heard a voice say on the wire, and I had terminated my conversation, "That was Mayor." Some people call me Mayor, talking and the other voice said, "No, he's in 926." I believe that was the room I was in.

And the other voice said, "No, Haggerty is in 918. It was Haggerty." Or words to that effect.

It was that incident, that's one of the incidents that I narrated to the Court when I asked the Court's protection of counsel.

Q. I will ask you if when the jurors Paschal and Fields were removed from jury service if it was necessary for you to prepare any legal memorandum in connection with this proceeding.

A. With Mr. Fields?

Q. Yes. In other words, when jurors Paschal and Fields were removed?

A. Yes.

Q. From the jury.

A. Yes.

Q. During the progress of the trial.

[fol. 3198] A. Yes.

Q. Did it become your duty then to prepare some legal memorandum?

A. Yes.

Q. And prepare some legal background?

A. Yes.

Q. I will ask you if during that period of time if Ed Partin was present during the discussions and during the time that you were discussing the legal matters and what action you were going to take in presenting this matter to the Court?

A. Well, I have to answer you this way, Mr. Partin was in there at every legal discussion that we had every evening.

Mr. Berke: That's all, Your Honor.
The Court: All right.

Examination.

By Mr. Neal:

Q. Mr. Maher, you testified on direct that in questioning the jurors Mr. Osborn would get up to ask a question and I would object before he would ask a question.
A. That's correct.
[fol. 3199] Q. I hand you transcripts of the United States of America vs. James R. Hoffa and Commercial Carriers of October 23, 24 and 25, and I will challenge you, sir, to find one example of that. I don't want to take the Court's time. I will let you off the stand and take as much time as you want but I want you to find one example. Would your Honor want to give him some time somewhere else?

The Court: Well, let's see—he apparently recalled an example, several examples of that, let's see if he can find them. He so testified.
The Witness: Now, I haven't seen this transcript in over a year.

By Mr. Neal:

Q. I understand, but you testified precisely to that fact.
A. That is correct and that is true whether it appears in this transcript or not.
Q. I see. I see.
A. If you will recall, Mr. Neal, during the course of that trial we had occasion on several occasions to invite the Court's attention to the gross inaccuracies in the transcription.
Q. You call them inaccuracies, Mr. Maher, if they weren't what you wanted in the transcript?

A. I beg your pardon?

[fol. 3200] Q. You call them, I said, sir, inaccuracies if they didn't accord with what your recollection of the testimony was?

A. Some of the recordation wasn't even grammatically correct. It didn't even make sense. In some of the instances they had you talking on behalf of the defendant.

Q. Just go ahead, Mr. Maher, I think it is going to take you plenty of time.

A. All right, you are asking me questions.

The Court: The witness will remain on the witness stand and the Court will be back in a moment. Gentlemen, be at your leisure.

Mr. Neal: May it please the Court, did your Honor get the memorandum we submitted to your Honor?

The Court: Yes.

(Thereupon, at 9:27 o'clock A.M. court was in recess.)

(At 9:32 court was in session.)

The Court: All right, is the witness ready to respond?

The Witness: No, your Honor, there were three days of voir dire examination and I haven't finished half of the first day.

Mr. Neal: The government is willing to let Mr. Maher do that in some room somewhere and take the transcript [fol. 3201] with him. If he can find one he can cite it to us. If he can't, he can respond that he can't find one.

The Court: All right.

Mr. Neal: Would that be satisfactory, your Honor?

The Court: Yes, is there anything further you wish to examine him about?

Mr. Neal: One or two more questions.

By Mr. Neal:

Q. Mr. Maher, you remember when Mr. Osborn alleged that his wires had been tapped in the record to the Court? And said that Mr. John Polk told him so?

A. Yes, I recall that.

Q. Do you remember an affidavit submitted by Mr. Polk that he did not tell Mr. Osborn that? And the government submitted it?

A. Whether it was in those exact terms or not—

Q. (Interposing) That was the substance of it?

A. As I recall it that was in fact.

Q. Pardon?

A. That was in fact the substance of it.

Q. That was in fact the substance of it that he had never told Mr. Osborn that the wires had been tapped and the Court then overruled all motions made. Is that correct?

A. Well, what motions were pending?

Q. Well, that motion made on wire tapping.

[fol. 3202] A. Such as it was, I believe so.

Q. Now, this illustration you gave of the FBI agent being in a restaurant, do you think FBI agents should not eat?

A. Are you arguing with me?

Q. Pardon me?

A. Are you arguing with me?

Q. I am asking you a question, sir.

A. Yes, I think they ought to eat.

Q. And this FBI agent you saw was in a restaurant?

A. Yes, sir.

[fol. 3203] Q. And you were eating and he was eating?

A. Yes, he was right next immediately adjacent to us.

Q. Yes. He was there first, was he not?

A. I don't recall whether he was there first or not, I believe he was.

Q. You believe he was there first and you came in and sat down?

A. That's right.

Q. That is some surveillance, Mr. Maher.

Mr. Silets: Objection.

The Court: Sustain the objection to the comment.

Q. This restaurant was fairly close to the courthouse wasn't it?

A. That's correct, about a block and a half away.

Q. A lot of court people eat there, don't they?

A. I don't know, I am not familiar with the people in Nashville.

Mr. Neal: We still would insist on Mr. Maher showing us that, your Honor, but he may leave the stand to do it.

The Court: All right. You may be recalled for that purpose?

The Witness: May I take these documents?

The Court: Yes. As I understand, that is the request.

[fol. 3204] The Witness: Very well.

(Witness excused.)

The Court: All right. Anything further?

COLLOQUY BETWEEN COURT AND COUNSEL

Mr. Branstetter: May it please the Court, on yesterday Mr. William Buffalino was on the stand and was asked with reference to a particular occurrence and he stated that the transcript in United States versus James R. Hoffa and Commercial Carriers, Criminal Action 13241 in the Middle District of Tennessee, was on its way and he would identify it when it was here, and I now have and furnish the government the page that was involved, it being 3898 of that transcript, and I would like to have it marked for identification and also offer it in evidence at this time. There is only one pertinent page that I would like to call to the attention of the Court and that one page is 3898, if my photo copy is correct, yes, it's 3898, and it's an examination of a witness in that case.

The Court: One moment. Identify that exhibit by number.

Mr. Reddy: This is a copy?

Mr. Branstetter: Yes.

(Thereupon, Mr. Reddy and Mr. Branstetter conferred outside the hearing of the reporter.)

(The transcript referred to above was marked Defendants' Exhibit No. 95 for identification only.)

[fol. 3205] Mr. Branstetter: The question and the answer that was referred to on the one page reads thusly, the answer is, "No, I," this is an examination by Mr. Buffalino in the case referred to, "Answer: No—I imagine that would be about it, but it is actually for the truck.

"Question: For the truck itself?

"Answer: Yes, sir.

"Question: I take you back to December of 1953, and I ask you whether or not—

"Mr. Neal: Your Honor, may I object to the further line of questioning and ask to take something up with the Court? I think I can point out the line of questioning. I think it is irrelevant. I think the Court has ruled upon it, and I wonder if we could discuss this. It might save some time.

"Mr. Buffalino: Have you been listening to our conversations? How would you know what I am going to ask this witness?

"Mr. Neal: I am psychic.

"Mr. Buffalino: Psychic or psycho?

"Mr. Neal: If it was December of 1953 I think I know the line of inquiry.

"Mr. Buffalino: I think it is important that we bring out what happened at the union meetings in December of 1953 and with reference to Test Fleet.

[fol. 3206] "The Court: All right. Let the jury retire."

The Court: All right.

Mr. Branstetter: I would like to introduce that in evidence as stated.

The Court: Allow it to be introduced for the purposes of identification.

Mr. Branstetter: Could I inquire of counsel about any other page? Then I would also like to hand in for identification in the same case beginning at page 4057 with the same.

The Court: I am sorry I missed the page.

Mr. Branstetter: What?
The Court: I missed the page.
Mr. Branstetter: 4057.
The Court: Allow that to be filed also for identification.

(The transcript referred to above was marked Defendant's Exhibit No. 96 for identification only.)

Mr. Branstetter: And it reads thusly:

"The Court: Mr. Witness, did you hear what your own counsel said that you were not to volunteer anything?
"The Witness: Pardon me, your Honor. I do not know too much about these things.
"The Court: You understand that, though, do you not?
[fol. 3207] "The Witness: Yes, sir.

"By Mr. Neal:

"Mr. Sammut, when did you first talk to defense counsel?
"Answer: When did I first talk to who?
"Question: Defense counsel.
"Answer: A week ago Sunday night.
"Question: Where did you talk to them.
"Answer: Andrew Jackson Hotel.
"Question: To whom did you talk?
"Answer: I talk with a lot of lawyers there, I don't know.
"Question: Did you go over your testimony?
"Answer: Some they asked me, yes.
"Question: How did you go over it?
"Answer: They asked me some questions what I remember and what I recall.
"Question: They asked you some questions?
"Answer: Yes, sir.
"Question: Just asked you—they just asked you questions and you answered them?
"Answer: Yes, that's right.
"That's all they did, Mr. Sammut?
"That's right.
"Did they give you anything to read, Mr. Sammut?

[fol. 3208] "No, sir, not even a newspaper.

"Not even a newspaper? I am not talking about newspapers, I am talking with respect to your testimony. Did they give you anything to read with respect to your testimony?

"Answer: After I talked to them.

"Question: They gave you written questions and answers, didn't they?

"Answer: The questions that they asked me and the questions that I answered.

"Question: They gave you that written out, didn't they?

"Answer: Yes, sir.

"Question: Didn't they tell you to go out and read it?

"Answer: No, sir.

[fol. 3209] "Question: What did they give it to you for?

"Answer: Well, they gave it to me.

"Question: I beg your pardon.

"Answer: I asked them if I could have one and they gave it to me.

"Question: They gave you the written questions and the answers?

"Answer: Yes, sir.

"Question: Did you read your written questions and answers?

"Answer: Yes, sir.

"Question: Did you read your written questions and answers?

"Answer: I looked over the first page and put it in my pocket. I was too tired to do anything about it.

"Question: That was the first time. Did you talk to them again?

"Answer: Yes, sir.

"Question: Did you go back over your written questions and answers?

"Answer: Not at all. Just asked me a few questions.

"Question: You read your few written answers?

"Answer: No, I didn't read them. I answered them.

"Question: You answered them?

"Answer: Yes, sir.

"Question: But you still had your written questions and [fol. 3210] answers?

"Answer: I believe I still had them.

"Question: Do you still have them here?

"Answer: I think so.

"Question: Do you have them in your pocket?

"Answer: No, sir.

"Question: Are you sure?

"Answer: Usually leave them, I believe I might have left them in the hotel room.

"Question: You don't know?

"Answer: No, I am not sure. I might have even left them in Detroit. I don't even know.

"Question: Mr. Sammut, would you give me again the members—

"Answer: "

Mr. Branstetter: And that is the extent of the colloquy or questions and answers.

The Court: All right. Gentlemen, do you have any other case authority you desire to cite to the Court?

Mr. Haggerty: This does not concern a case, Your Honor, but I do have a statement I desire to make to the Court if I may at this time?

The Court: All right, is it in argument of the cases, Mr. Haggerty?

Mr. Haggerty: It is not in a sense an argument of the [fol. 3211] cases but it is an argument against the government's contention.

The Court: All right.

Mr. Haggerty: Which they have raised in their brief. Now, it may properly be, I may be improper at this time to raise the question, but I desire to raise it before the proof and arguments have closed.

The Court: All right.

Mr. Haggerty: Does Your Honor care to hear from me now?

The Court: At this time, no, I just desire to know if there were any other case authority that the parties desire to cite other than that in the memorandum of authority heretofore cited.

Mr. Branstetter: May it please the Court, we would like to refer the Court to a case that is actually cited in the government's brief, Mapp versus Ohio, and, of course, that will be before the Court, although we think this sustains our position.

The Reporter: Your Honor, I did not get that citation.

The Court: Mapp (spelling) M-a-p-p, 367 U. S. 643.

Gentlemen, the Court has overnight read all the cases that were cited last evening including I find all but two of [fol. 3212] the cases that are cited this morning in any of the memoranda and I have looked at those this morning. And have read other cases which I do not find cited in the memoranda. The Court is of the opinion that the motion to suppress the testimony of the witness Mr. Partin should be overruled, having observed the manner and demeanor of the witness on the witness stand, and the testimony of the witnesses, I would find that there has been no interference by the government with any attorney-client relationship of any defendant in this case.

I would further find that the government did not place this witness Mr. Partin in the defendants' midst or have anything to do with placing him in their midst, rather that he was knowingly and voluntarily placed in their midst by one of the defendants.

As the Court understands and interprets the law, there is no basis for denying the government the use of this witness' testimony in this case.

The Court has likewise read all of the notes and statements filed as exhibit to the testimony of the witness Sheridan and it is the opinion that there is no information in the notes and papers of the witness Sheridan that would be proper or lawful to make available to the defendants.

Likewise the request of the defendants for examination of all FBI reports should be denied.

[fol. 3213] Now, the Court has not had an opportunity yet to examine the Jencks statement that was submitted to it on yesterday, a portion of it having been furnished to the defendant and comparing that with the full record and I reserve that at this time.

Mr. Haggerty: May I correct the Court; we were not furnished with any Jencks statement.

Mr. Berke: No, the statement by Your Honor that we were furnished that is in error.

The Court: Gentlemen, the government gave me the copy of this extraction from this witness on the witness Oscar M. Pitts.

Mr. Berke: Pitts, we're talking about the witness Partin, we thought Your Honor was talking about the witness Partin.

The Court: No, this is in regard to the witness Oscar M. Pitts. I have not been able to examine and compare that with the original report.

Mr. Neal: May it please the Court, with respect to Mr. Partin, we have given the Court the original notes and the typewritten notes taken from those notes as testified by the witness Sheridan. Now, that is all that pertains to the witness Partin. We have been given it, we have given it to the Court with the exception of one matter, Your Honor, and I have an order from the United States District Court [fol. 3214] in Nashville to submit a sealed document, that will be a Jencks statement. We readily agree that is a Jencks statement and that will be submitted to defense counsel. Very short statement.

The Court: All right. All right. The Court is also of the opinion that the motion to quash the indictment made on yesterday by the defendants should be overruled. Very well, are we ready to proceed?

Mr. Schiffer: If the Court please?

The Court: Yes, sir.

Mr. Schiffer: On behalf of the Defendant Parks, Your Honor, I respectfully submit and we so move that insofar as the notes of Mr. Sheridan are concerned which are now

before the Court in the Court's own possession which, of course, counsel for defendants have not seen, that I question in view of his own testimony that Mr. Sheridan actually, physically, on the days he said he had his meetings with the witness Partin, that on that particular series of dates to which he testifies, that he actually made those notes.

And I should like to inquire of Mr. Sheridan or anybody else in the government depending upon his testimony, as to the true dates on which he made those inscriptions which he calls his notes, and the subsequent dates on which he says six or seven months later he first made up a memorandum which he sent around to the FBI and I should like [fol. 3215] the opportunity on behalf of Mr. Parks to question Mr. Sheridan concerning the verity of the dates which may or may not appear on those so called original notes as to whether or not they were not in fact made at a subsequent date rather than the dates to which he has testified. And because of the peculiar circumstances, Your Honor, and this is the first time that it has appeared in this case in this trial for the first time a witness has taken the stand or any averment has been made by the prosecution that original notes were made and six or seven months later a recap was made which was distributed to the FBI.

[fol. 3216] The circumstances are so peculiar and in view of the defenses I have already raised on behalf of Mr. Parks I ask for the opportunity for further cross examination of Mr. Sheridan, specifically to determine whether in fact those notes were made on the dates he said he made those original notes.

The Court: All right. Overrule that request. The opportunity for the hearing was made available, the witness was examined.

Mr. Silets: Your Honor, in light of the Court's ruling I would ask the Court—I would like to take exception to the ruling and ask the Court to permit the Witness Partin to resume the stand and permit me to go into the subject

matter of his assignment and the conversations that the Court ruled yesterday I was not permitted to go into.

As I understand the Court's ruling now, you have indicated that it is your conclusion that the defense has not established a purpose for which this man came in and what instructions he had and what he was to do in the midst of the defense and these are the very matters that I sought to go into on cross examination of him yesterday and the Court denied me access to that line of questioning.

I am going—I'd like to take exception to the Court's ruling and ask that I be permitted to go into that line of questioning of Mr. Partin.

[fol. 3217] The Court: I believe that request should be denied.

Mr. Haggerty: May it please the Court, your Honor.

The Court: Yes, Mr. Haggerty.

Mr. Haggerty: I call your Honor's attention that it is the contention of the government in this instance that the testimony to be given by the Witness Partin is entirely unrelated to any intrusions he may have made on the privacy of an attorney-client relationship and agreed with the government.

Now, I say to your Honor that Mr. Hoffa is in a different category than the other defendants. Mr. Hoffa was the only defendant in the Nashville case. Mr. Hoffa is a defendant in this case.

The witnesses that we claim were spied, so to speak, are the witnesses of Mr. Hoffa's. Three jurors were removed. In the first instance the same witnesses that appeared before Judge Miller in that removal, Pitts and Paschal, appeared here as government witnesses.

There is such a strong co-relation between the two cases that one could not find in the application of any rule of logic that there is no co-relation between these cases and that Mr. Hoffa is the one who has the claim here and I say to your Honor under those circumstances I take except-

[fol. 3218] tion to your Honor's ruling.

The Court: All right.

Mr. Haggerty: And respectfully submit that even at a hearing one of these secret hearings, the secret hearing on the Witness Paschal, I quote from Mr. Neal, Page 3996-3997, Mr. Neal addressing the Court, "Your Honor, the government submits, and I am sure the defense counsel will probably join, in that more than suspicious circumstances have been established out of these witnesses your Honor has heard. It is plainly obvious that this was an improper attempt by King and Pitts to influence this jury and I don't think any more need be said about that."

Now, there is such a co-relation here that I cannot understand how, frankly speaking, with all due respect, that your Honor has reached his conclusion.

The Court: All right. All right. Let's have the jury return.

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had, to-wit:)

The Court: Again, ladies and gentlemen, I would extend the apologies of all concerned for the fact that you ladies and gentlemen have again had to wait quite a while to indicate to you our concern of that problem. We did hold court until almost seven o'clock last night in an effort to [fol. 3219] reduce the time so that your services might not be required in the courtroom.

Edward Grady Partin, a witness called at the instance of the United States of America, having been previously duly sworn, was recalled and testified further as follows:

Direct Examination.

By Mr. Hooker:

Q. Mr. Partin, on yesterday I asked you about your stay at the Andrew Jackson Hotel from Monday, October the

22nd, to Tuesday, October the 23rd, and I believe the hotel bill was filed as Government Exhibit 94. We would like to pass that to the jury at this time.

(The exhibit referred to above was passed to the jury.)

Q. That was your hotel bill I showed you yesterday, was it not?

A. Yes, sir.

Q. Now, I asked you just at the conclusion about a conversation that you had in Mr. Tweel's room. Do you recall that? I am not asking you to repeat the conversation. You do recall that I asked you about that on yesterday?

A. Yes.

Q. And that was during the afternoon of the first day that you were here?

[fol. 3220] A. Yes.

Q. And that was during the afternoon of the first day that you were here?

A. Yes.

Q. Now, later on in the evening did you have any discussion with Mr. Hoffa about your remaining here?

Mr. Schiffer: Objected to, your Honor. We should like the prosecution to be instructed first to fix the time and place and who was present and if Mr. Parks was not present the jury be instructed it does not apply to him.

Q. Was anybody present except you and Mr. Hoffa?

Mr. Haggerty: I object to that as leading. I think that, now that we are getting into a delicate area, I think there should be a proper direction.

The Court: Mr. Neal, I mean Mr. Hooker, wait until the Court has an opportunity to rule upon objections before proceeding. Overrule the objection as to further identifying the time and place of the question; that is a matter that counsel could go into on cross examination.

The jury will observe the same instructions that the Court has heretofore given with regard to the heasay state-

ments or alleged hearsay statements of any defendant and their admissibility or consideration by the jury as to any other defendant. The Court has given the instructions upon no less than four occasions to the jury upon that and [fol. 3221] I refer you to those instructions.

Mr. Silets: Your Honor, may the jury be instructed specifically that they are not to consider any statements outside of the presence of the Defendant Dorfman to prove the existence of a conspiracy, if that is what the government is seeking to do?

It is extremely important point at this point that the jury be instructed carefully and cautiously on this area.

The Court: I believe the Court has heretofore instructed the jury fully and properly upon that matter. All right.

By Mr. Hooker:

Q. Who was present at this conversation that I am asking you about?

A. Well, there was no one present at the conversation because he called me into his room.

Mr. Schiffer: Objected to, your Honor, as "because", move that part be stricken.

Q. Called you into his room?

A. Yes, sir.

Mr. Schiffer: Objected to. Mr. Hooker, now, your Honor, we are in a position now where we must have the aid and assistance of the Court. Now, Mr. Hooker is going to testify for these witnesses.

[fol. 3222] The Court: Mr. Hooker, do not ask the further question until the Court has an opportunity to rule upon the objection. Overrule the objection.

A. There was no one present. He called me into his room by nodding his head to me.

Q. Do you recall what cnoversation you had with him?

A. Yes. He told me he'd like for me to stick around a

day or two that he might have one or two people he wanted me to call. He said that they was going to get to one juror or try to get to a few scattered jurors and take their chances.

Mr. Schiffer: Objected to, your Honor. At this time I move for a mistrial on behalf of the Defendant Parks. I don't see under what theory this can apply to Mr. Parks and, secondly, I move for a severance on behalf of Mr. Parks that this kind of testimony designedly brought forth by the prosecution is intended to prejudice the case of Mr. Parks before this jury and I believe he has succeeded in prejudicing this jury against Mr. Parks. I move most respectfully for a severance or a mistrial of the indictment as to him.

The Court: Overruled.

Mr. Silets: Your Honor, I would also join in the objection inasmuch as up to this point there has been no showing that there was such a conspiracy, that there was any agency between the parties.

[fol. 3223] Here is a conversation outside of the presence of the Defendant Dorfman.

Now, this is sought by the prosecution to prove the truth of what this alleged, this alleged conversation was, and under the theory of any of the cases, Minter vs. United States, this is incompetent to establish that agency and that has not been done to date and yet this prejudicial statement—nobody knows whether it was ever said—this prejudicial statement outside of Mr. Dorfman's presence is being explained to the jury to prove the truth of that statement and it is so prejudicial that I move for either a mistrial or a severance under the theory of Minter vs. the United States.

Mr. Branstetter: May it please the Court, the Defendant Campbell joins in that motion for a severance and/or a mistrial.

[fol. 3224] The Court: Allow the motion to be entered on behalf of each defendant and overrule the motion both for

severance and for mistrial and the objection of the defendant. Proceed.

By Mr. Hooker:

Q. Were you familiar with the suite that Mr. Hoffa and others were occupying at the Andrew Jackson Hotel?

A. Yes, I was.

Q. Which one of the rooms, in which one of the rooms did this conversation with Mr. Hoffa occur?

Mr. Schiffer: Objected to on behalf of the Defendant Parks, Your Honor, for the same reasons.

The Court: Overruled.

A. When you enter the door to the right is an ante room kind of. Mr. Hoffa's room was to the right of that; you go and then turn to your right; it was in there.

Q. Do you know how many rooms there were in that suite?

A. I think it was two bedrooms and one large lounge room.

Q. Have you seen a drawing or a plat of that suite, Mr. Partin?

Mr. Schiffer: Objected to, Your Honor, on the same grounds.

The Court: Overrule the objection.

[fol. 3225] A. I think I saw a copy of it, yes, sir.

Mr. Schiffer: Object to the form of the answer and move that it be stricken, he thinks. He either knows or he doesn't know, Your Honor.

The Court: Overrule the objection.

By Mr. Hooker:

Q. I want to ask you if you were shown before you took the witness stand yesterday a plat of that suite?

A. Yes, sir, I'd have to look at it to see if it was the same one.

Q. I understand. But did the one that you saw yesterday, did it correctly represent the location of these rooms?

A. Yes, sir, it did.

[fol. 3226] Mr. Hooker: We would like to file this as Government Exhibit No. 97 for identification. I would like now to show it to the witness and ask the witness if that correctly represents the location of the room.

(The document referred to above was marked Government's Exhibit No. 97, Witness Partin, for identification only.)

The Witness: Yes, sir, that's correct. This would be—

Mr. Haggerty: (Interposing) I object to the witness testifying before the chart is in evidence.

The Court: Overrule the objection. The chart has not yet been exhibited to the jury.

By Mr. Hooker:

Q. We now offer the plat or chart in evidence, if your Honor please.

Mr. Silets: Your Honor, there has been no foundation laid for this chart. The preparer of the chart has not testified. The fact that this man may recognize it as having some resemblance it is no indication that it is in fact and in truth an exact representation of this suite of rooms. Now, the proper procedure as Mr. Hooker well knows is to first call the man who has prepared the chart to testify from his own knowledge about his preparation and then have the witness compare that to his memory of what the rooms appeared to be.

[fol. 3227] Now, he is trying to put in this chart by a man who has probably only seen it yesterday when he went over his testimony with Mr. Hooker. I'm going to object to having this entered into evidence without a proper foundation being laid.

The Court: I believe unless the witness is able to

identify it further that I should reserve any ruling on that at this time.

By the Court:

Q. Do you or not recall the matters portrayed on the plat as being the conditions as they existed and you observed having existed?

A. Yes, sir, I could describe them to you in detail.

The Court: All right, do that.

By Mr. Hooker:

Q. All right, go ahead, Mr. Partin, and describe the suite as you walk in from the elevator.

Mr. Schiffer: Your Honor, may we not have the witness first tell us the entire description without looking at this plat? He is supposed to be testifying from his memory, not from exhibits which the government prepares for him and he is supposed to repeat as a parrot.

The Court: Overrule the objection.

The Witness: When you go into the hallway here, Bill Buffalino's room was here. There is a large round table here where they gambled all the time sitting here.

[fol. 3228] Mr. Silets: Objection, your Honor, and ask that that be stricken.

The Court: Sustain that objection.

Mr. Silets: Would the Court instruct the jury to disregard that?

The Court: The jury will disregard that.

The Witness: Couch and table sitting here. Over here was couches.

Mr. Silets: Your Honor, excuse me, will the record please indicate that the witness has pointed to what is indicated on this document as Room 742 as being Mr. Buffalino's room?

The Court: All right.

The Witness: Well, Mr. Buffalino slept in here. I don't know where his room was.

Mr. Silets: That is Room 742.

The Witness: You have a telephone here with a chair and lamp here. Right inside this room here is a telephone by a table just as you go into Mr. Hoffa's room. Here is a bed. Closet was here. And they may have had something over here. I don't recognize what this is here, but I do know the telephone was here by a table. And a chair and a couch here. Telephone there just as you walk into the right.

Mr. Haggerty: Your Honor, just on the record this will not show a thing. He is pointing to there and here. There [fol. 3229] is no indication as to what—we have got a number of rooms involved here. It certainly will be just chaos on the record.

The Court: All right.

By Mr. Hooker:

Q. What was the number of the room that you referred to as the large room, large sitting room, however you referred to it?

A. Well, I always called it Mr. Hoffa's room. Even though he didn't sleep there because that is where everyone came in and out of.

Mr. Silets: I move that the answer be stricken, your Honor, as not responsive, your Honor.

The Court: Sustain the objection.

By Mr. Hooker:

Q. Well, is there a number for the room or was there a number for the room, the large room in which no one slept?

A. 740.

Q. 740?

A. Yes, sir.

Q. And then what was the number of the room in which Mr. Hoffa slept?

A. His room came directly off of that room. Now, I don't know the number.

Mr. Schiffer: Objected to, your Honor. It is not respon-
[fol. 3230] sive.

The Court: Overrule the objection.

The Witness: His room you could walk out of the room that they had the chairs and lamps and things in, couches and things, into Mr. Hoffa's room. As I said, when you first got into his room, there was a telephone and a table sitting there, right inside the room to the right.

By Mr. Hooker:

Q. Then, was there any entrance to that room, that is the room Mr. Hoffa slept in out into the hallway?

A. Yes, sir, it was.

Q. Do you see that on this plat?

Mr. Silets: Objection, your Honor, this is the very vice of allowing this witness to look at the chart, because he is not testifying from his own memory. He is testifying from the chart.

The Court: Well, you have objected, have you not, to the chart and—

Mr. Silets: (Interposing) That is why, excuse me, your Honor, I am objecting to the chart and in spite of that it is not being in evidence he is using this as a basis for his testimony.

The Court: Overrule the objection.

By Mr. Hooker:

Q. Is there a door leading from the room in which Mr.
[fol. 3231] Hoffa slept out into the hallway?

A. Yes, sir, through here.

Q. Now, how did you get into Mr. Buffalino's room?

A. From within 740. You would go from 740 into his room, the door, the door opened directly into 740.

Mr. Hooker: We would now like to offer the chart in evidence, if your Honor please. We think it has been sufficiently identified.

The Court: I will allow it to be admitted.

Mr. Silets: May my objection be noted, your Honor?

The Court: Yes, sir.

(The document previously marked Government's Exhibit No. 97 for identification was received in evidence.)

Mr. Alexander: We can't see the chart over here.

The Court: Turn the chart around so counsel can see it.

By Mr. Hooker:

Q. Now, I want to ask you, Mr. Partin,—

Mr. Haggerty: (Interposing) Just a moment, your Honor, I object to anything further until the date is fixed. There hasn't been a date fixed as to this alleged conversation between the witness and Mr. Hoffa.

The Court: Well, the Court is not aware as to what the question your objection is directed to. Let them state a [fol. 3232] question.

By Mr. Hooker:

Q. I will, I will develop the date right now. I understood him to answer that earlier. When did this conversation that you just related between you and Mr. Hoffa occur with respect to when you got to Nashville?

A. It was October 22.

Q. October 22?

A. Yes, sir.

Q. Same day you got here?

A. Yes, sir.

Q. All right, now, look at this chart—

Mr. Silets: (Interposing) Mr. Hooker, if your Honor please, your Honor, would Mr. Hooker stand on the other side so that we can see the chart?

The Court: All right.

By Mr. Hooker:

Q. Now, with reference to the chart—

The Court: (Interposing) Mr. Hooker, they have asked if you would mind standing on the outside of the chart?

Mr. Hooker: All right.

By Mr. Hooker:

Q. With reference to this chart here, in which of these rooms did the conversation that you have related between yourself and Mr. Hoffa occur?

[fol. 3233] A. Well, the room 738 is there. I don't see any partition in between it but there was a door if that is 738 when you come into 740 you go to the—

Mr. Branstetter: May it please the Court, the witness is now testifying that this is not an accurate representation, this is the vice that has been referred to. They take these witnesses, they prepare this material, they go over it with them days before and come in here and say here, affirm what we've told you. This is not the way a judicial proceeding should be conducted.

The Court: Overrule the objection.

The Witness: I could describe it without looking at the chart easy enough by looking away from it.

By Mr. Hooker:

Q. Describe the room then.

A. You walk into 740, to the left is where Mr. Hoffa's other room is. To the right is the room where had the couches and tables and things. To the end of that room first door to the right is Mr. Hoffa's room.

Q. Which of these rooms did the conversation take place in?

A. In Mr. Hoffa's room where he slept.

Q. In the room where Mr. Hoffa slept?

A. That's correct.

Q. Now, Mr. Partin, did you remain in Nashville the [fol. 3234] next day, that is, which would have been Tuesday, October 23?

A. Yes, sir. I think I was there.

Q. Sir?

A. I was there. I'm sure I was. The records show that.

Q. Were you in Mr. Hoffa's suite that day?

A. Yes, I was.

Q. Do you recall any other persons that were present?

A. It was several people sitting, you know, in the ante room I called it, the sitting room, in the lobby when I went in that morning.

Mr. Schiffer: There was no lobby, isn't the lobby on the ground floor, Mr. Hooker? May we have that explained?

The Witness: Well, ante room I called it. Ante room, whatever it was, no one slept in it. It was a living room if it was in your home, I will put it that way.

By Mr. Hooker:

Q. To the suite?

A. Yes, sir.

Q. Did you leave town that day, Mr. Partin?

A. Yes, sir.

Q. Did you have any conversation about your leaving town?

[fol. 3235] A. Yes, sir.

Mr. Silets: Your Honor, I'm going to object to this then. If Mr. Hooker would like to describe a conversation then it is Mr. Hooker's prerogative to take the stand, but I think the proper question is did he have any conversation, state where and when and relate the conversation. Mr. Hooker is an experienced lawyer and I'm sure he knows that.

By Mr. Hooker:

Q. With whom—

The Court: Sustain the objection.

Mr. Haggerty: Just a moment, Your Honor, I have a further objection to make at this time that this is going into evidence of other attempts, attempts that are not included in the indictment. Therefore, I object to them on that ground and any testimony given by this witness heretofore be stricken from the record.

The Court: The Court is unable to determine at this time whether your objection has merit, Mr. Haggerty. I'm going to overrule it at this time. You will have the right to renew it at such time as the Court determines from the testimony what you are directing your objection to.

Mr. Haggerty: I point out to the Court that the vice of such procedure is one, prejudicial matters such as this are once given to the jury, even though they are instructed, [fol. 3236] even though the jury is instructed to disregard it, the harm remains.

The Court: All right.

By Mr. Hooker:

Q. Now, Mr. Partin—

Mr. Hooker: May I proceed, Your Honor?

The Court: Yes, sir.

By Mr. Hooker:

Q. Mr. Partin, I'm speaking now did you have a conversation with Mr. Hoffa?

A. Yes, I did.

Q. Was anyone else present at the conversation?

A. No, sir, he called me into his room.

Q. Do you recall what was said?

A. Yes, sir, I told him at the time—

Mr. Schiffer: Objected to, Your Honor, at this point so

far as Defendant Parks is concerned, there certainly has not been shown to have been connected with Mr. Parks and since he is not named by this witness as a person present I move for a severance or a mistrial. This is all highly prejudicial so far as Mr. Parks is concerned and since the prosecution has elected in this indictment to join Mr. Parks in this case in a separate count, I respectfully move that it is highly prejudicial and we move for a severance or mistrial.

[fol. 3237] The Court: Overrule the motion.

Mr. Haggerty: May it please the Court, on my objection—

The Court: (Interposing) Just a moment. Let me rule upon this.

Mr. Haggerty: Beg your pardon.

The Court: Do you have the same matter to make, Mr. Haggerty?

Mr. Haggerty: No, I have a different matter.

The Court: Well, on the motion of Mr. Schiffer, overrule the motion for severance and for mistrial and instruct the jury to observe the instructions heretofore given to them with regard to this type of testimony.

Mr. Haggerty: Now, my reference to the objection heretofore made and which Your Honor overruled at that time with the right of renewal, I would suggest to Your Honor that in the interest of a fair trial it would be strictly advantageous if Your Honor would excuse the jury at this time and on a separate record establish upon questioning whether or not this is a matter, and it could easily be determined, that is not included in the indictment and is a similar act.

Mr. Neal: Your Honor, we are entitled to put on our proof.

The Court: Ladies and gentlemen, I would instruct you [fol. 3238] that if any testimony were given with regard to alleged similar acts, that testimony would be considered by you only as it might or might not bear upon the inten-

tion or the purpose with which any defendant may have done any act or acts for which he here stands indicted or for which he here stands for trial, but it would not be considered for any other purpose.

Overrule your request other than to that extent, Mr. Haggerty. Proceed.

By Mr. Hooker:

Q. What was said, Mr. Partin?

A. He called me into his room and told me that—

Mr. Silets: We can't hear him, Your Honor.

A. I said he called me into his room and told me when I came back he may want me to pass something for him. He put his hand behind his pocket like that, (Indicating) and hit his rear pocket.

Mr. Schiffer: I didn't get that last phrase.

Mr. Haggerty: I didn't understand the witness, Your Honor. May we have that question read?

The Court: All right. Read the question and answer.

(Thereupon, the question and answer were read by the reporter.)

Mr. Schiffer: Your Honor, I move that the question and [fol. 3239] the answer be stricken insofar as the Defendant Parks is concerned and now we get into such highly prejudicial matters by inference, really.

The Court: Mr. Schiffer, let's not proceed with a long argument on these matters. If you wish to make your objection—

Mr. Schiffer: (Interposing) Upon the grounds mentioned, Your Honor.

The Court: Yes.

Mr. Schiffer: I object to this kind of testimony and I say that so far as Mr. Parks is concerned he is entitled to a severance at this time or a dismissal of the count of the indictment which applies to him.

The Court: Overrule the motion.

Mr. Schiffer: May I state for the record, Your Honor, that what this witness is testifying to has something in relation to another count but since my defendant is in this entire indictment it's going to fall over onto his shoulders, he will be held responsible for what this witness testifies.

The Court: Just make your motion, Mr. Schiffer, and let's proceed. Overrule the motion.

By Mr. Hooker:

Q. Now, did you leave Nashville?

A. Yes, sir.

[fol. 3240] Q. Where did you go?

A. To Baton Rouge.

Q. Back to Baton Rouge. Then did you return to Nashville later on, Mr. Partin?

A. Yes, I wouldn't know the date unless I could look on a record.

Q. Well, I hand you here a registration at the James Robertson Hotel.

Mr. Schiffer: Objected to, Your Honor, the form of the question and that is not the proper way to ask the witness and Mr. Hooker knows that, Your Honor, and I protest.

I move for a mistrial. Here we are not getting a fair trial here by the tactics of Mr. Hooker. They are seeking to prejudice my defendant and I will not still my tongue in the face of this kind of tactics. He knows he is wrong and he persists in it. What am I supposed to do here, keep my mouth closed? He knows the law and I protest, Your Honor.

The Court: All right. Do you care to say anything further? The objection to the question will be sustained. The motion for mistrial and severance will be overruled.

By Mr. Hooker:

Q. Do you recall where you stayed, Mr. Partin, when [fol. 3241] you returned to Nashville?

A. Yes, sir, I stayed at the James Robertson Hotel.

[fol. 3242] Q. Did you get a bill, a hotel bill, from the James Robertson?

A. Yes, I did.

Q. You state that you don't recall out of your own recollection the exact date?

A. No, sir, I couldn't swear to the date, I'd have to see something on the bill.

Q. Would the bill that you got there refresh your recollection?

A. Yes, sir, it would because it was the only day I stayed there.

Mr. Hooker: We would like now to pass the bill to the witness, if your Honor please.

The Court: All right.

(The document referred to above was passed to the witness.)

Q. Is that your bill?

A. Yes.

Q. Does it show the date that you arrived in Nashville?

A. The 25th.

Q. Of October?

A. Yes, sir, it was the 25th of October.

Mr. Hooker: We'd like to offer that as Exhibit 98, offer it in evidence and let it be shown.

[fol. 3243] Mr. Silets: May we see that?

Mr. Hooker: Let it be shown to counsel. The first bill I had this morning, was that passed to the jury?

Mr. Silets: Could he refrain from questioning while we examine the document?

Mr. Hooker: I am not asking the witness, Mr. Silets, I just asked the question if the first exhibit we had this morning had been passed to the jury.

Mr. Schiffer: I am a little slow-witted. If you don't mind, Mr. Hooker, I can only do one thing at a time. May we just look at the exhibit?

Mr. Silets: Now, your Honor, I am going to object to this document because on its face it appears that this is not a document which is in the possession of this witness or is his document.

Now, Mr. Hooker knows, and we have gone through two weeks of trial of laying the proper foundation for the introduction of documents. He knows that the right person is the man in whose possession the record itself is and whose regular course of business it is to keep such record and yet he wants to introduce this document by this witness and it is not his.

Now, if he wants to use it to refresh his recollection, which he did, that is one thing, but to introduce it in evidence it is not competent.

[fol. 3244] The Court: All right. Allow it to be introduced for identification purposes only.

(The hotel bill referred to above was marked Government's Exhibit 98 for identification only.)

The Marshal: No conversation in the courtroom, please.

The Court: Let's proceed.

By Mr. Hooker:

Q. After you checked into the Andrew—into the James Robertson Hotel on this occasion, why did you stay there, let me first ask you that?

Mr. Silets: Objection, your Honor, that calls for a conclusion on the part of the witness.

Mr. Schiffer: Object.

The Court: Overrule the objection.

A. They didn't have any vacancies at the Andrew Jackson.

Q. And you stayed at the James Robertson?

A. Yes, sir.

Q. Where did you go after you checked into the James Robertson?

A. I went directly to Mr. Hoffa's room.
Q. Did you see Mr. Hoffa?
A. Yes, I did.
Q. Did you have a conversation with him?

[fol. 3245] Mr. Schiffer: Objected to.

Mr. Haggerty: Just a minute. We fixed the date of October the 25th. May we fix the time of day or night of this?

Mr. Schiffer: Insofar as the Defendant Parks, of course, is concerned, your Honor, we move, respectfully move now for a severance, for a mistrial, and on the ground that none of this testimony can under any reasonable theory of logic or law or evidence even remotely apply to Mr. Parks.

The Court: Overrule the motion; overrule the objection.

By Mr. Hooker:

Q. Mr. Partin, do you recall about what time it was that you went up to the Andrew Jackson?
A. I had got in late that afternoon, it was in the late evening, I am not positive as to the exact time, no, sir.
Q. And did you have a conversation with Mr. Hoffa?
A. Yes, I did.
Q. Will you state what was said?

Mr. Schiffer: Objected to, your Honor, on behalf of the Defendant Parks. I don't believe any of this is applicable to Mr. Parks and I am sorry that I must get up with every question and answer insofar as relates to others connected with this case conceivably going to the allegations other than Parks, but to protect Mr. Parks I must object con-
[fol. 3246] tinuously to the line of questioning where anything is said or done by anybody without the presence of Mr. Parks and he is not connected up by the testimony.

The Court: All right. Just state your objection and—

Mr. Schiffer: (Interposing) Move for a severance and for a mistrial.

The Court: Overruled.

Mr. Silets: Your Honor, may we have it stated first before he goes into a conversation who was present?

The Court: Overruled.

By Mr. Hooker:

Q. Would you state what was said in your conversation with Mr. Hoffa?

A. Yes, sir. We had talked for several minutes in general and he nodded his head to me and he told me that—I don't know whether to repeat the words that was said or not in front of the ladies here.

Mr. Schiffer: Well, your Honor—

The Court: (Interposing) Answer the question.

A. Yes, sir. Well, he said, "The dirty bastards went in and told the Judge that his neighbor had offered him $10,000." He said, "We are going to have to lay low for a few days."

Q. Was anybody else present at the time of that con-
[fol. 3247] versation?

A. Mr. Hoffa never has anyone present when he says something.

Mr. Schiffer: Objected to, your Honor. Ask the answer be stricken. We want a direct answer to the question.

The Court: Sustain that.

A. No, sir.

The Court: Sustain that objection.

Mr. Haggerty: And ask the jury be instructed to disregard that.

The Court: Yes, disregard the statement.

[fol. 3248] Mr. Berke: If your Honor please, in order to save time here, we think that in view of the fact that it is evident what this witness is doing and how he is performing that the Court now should instruct him to simply answer the questions that I ask him and not to volunteer all these side plays that he is trying to inject into this case. Now, this is the third or fourth time and we're just getting started on his testimony and I think if the Court would admonish this witness then we can get along much better.

The Court: Well, let's proceed, gentlemen. The Court has given what it believes to be appropriate instructions.

By Mr. Hooker:

Q. Prior to Mr. Hoffa's statements to you, had you made any statement to him?

A. I had told him that he asked me to come back and see him when I got in town. That he may want me to pass something for him. That was the purpose of going directly from the hotel.

Mr. Silets: Your Honor, I move that it be stricken as not being responsive. He asked him what he had said to Mr. Hoffa, and he goes into a discussion about purposes.

The Court: Overrule the objection.

By Mr. Hooker:

Q. And then that was the same conversation that you [fol. 3249] related what Mr. Hoffa had said?

A. Yes, sir, that is the same conversation.

Q. Now, Mr. Partin, did you remain in Nashville the next day, Friday, October 26th?

A. I think so, sir. I would have to—

Mr. Schiffer: (Interposing) Objected to, your Honor. He either knows or he doesn't know. He is conjecturing now very obviously. I move the answer be stricken.

The Court: Overrule the objection.

By Mr. Hooker:

Q. I want to hand you here your registration there if that will refresh your recollection and ask you state if you were here the next day?

A. I am sure I was, but I would have to look.

Q. In Nashville?

Mr. Schiffer: What is counsel referring to for the record, please, your Honor?

Mr. Hooker: Exhibit No. 98 for identification.
The Court: All right.
The Witness: Yes, sir.

By Mr. Hooker:

Q. Now, on that next day, that would have been Friday, October 26th, was it not?
A. Yes, sir.
Q. Were you in the suite at the Andrew Jackson Hotel [fol. 3250] at any time that day?

Mr. Schiffer: We object to the form of the question, your Honor, at this time. He is leading the witness.
The Court: Overrule the objection.
The Witness: Yes, sir.

By Mr. Hooker:
Q. Were you there?
A. Yes, sir.
Q. Did you have any conversation that day with Mr. Ewing King?
A. Yes, sir. He told me—

Mr. Schiffer: (Interposing) Objected to, your Honor, on behalf of the Defendant Parks, now, we go into another person allegedly connected with this indictment, named in the indictment, has no application to the Defendant Parks. I move for a severance and mistrial at this time.
The Court: Overruled.
Mr. Haggerty: May it please the Court, at this time I wish to interpose the objection that this testimony is not competent at this time in the absence of proof in the establishment of the corpus delicti. These are admissions against interests and are used for that purpose.
The Court: Overrule the objection.
Mr. Branstetter: May it please the Court, I believe the [fol. 3251] case on that is Opper versus United States.

The Court: I beg your pardon?

Mr. Branstetter: Opper (spelling) O-p-p-e-r versus United States. I believe it is a case that holds—

The Court: (Interposing) Do you have the citation?

Mr. Branstetter: I'm getting it. That admissions or declarations against interests either one, are not admissible in evidence for any purpose until the establishment of the corpus delicti. At this point there is no method of determining what count counsel is referring to or what acts alleged in the indictment is referred to in this type of testimony. That is 348 U. S. 84. We think that it is very unfair really and prejudicial and contrary to the rules of evidence to permit testimony of this character until there has been an establishment of the allegations in the indictment.

The Court: Overrule the objection.

Mr. Silets: Your Honor, on that point, may we also cite Smith versus United States, 348 U. S. 147.

The Court: All right.

Mr. Hooker: May I proceed?

The Court: Yes, sir.

By Mr. Hooker:

Q. State what the conversation was between you and Mr. King?

[fol. 3252] A. Well, I had several conversations with him. To the best of my recollection that morning he was discussing—

Mr. Silets: (Interposing) Could we have established who was present, your Honor, so that, and what the time was, the occasion, and so forth? The ordinary foundational requirements before putting into evidence a conversation?

The Court: Those normally would be matters of cross examination. I will sustain the objection.

By Mr. Hooker:

Q. Where was this conversation, Mr. Partin?

A. It was in the lobby, not in the lobby, the hallway, most of it took place outside 740. We had walked out and were discussing and walking to the elevator.

Q. On what floor?

A. Seventh floor.

Q. Do you remember about what time of day it was?

A. It was in the morning. I am not sure what time in the morning. I think before going to the trial.

Q. Was anyone present besides you and Mr. King?

A. Well, it was several walking back and forth that were getting ready to go to the trial, I'm sure that is where we were going.

Q. In that connection, did you go to the trial while you were there?

[fol. 3253] A. Yes, I did.

Q. Just state what was said by Mr. King on that particular occasion?

Mr. Silets: Can he relate the whole conversation rather than relate piece-meal?

The Court: Overrule the objection.

Mr. Neal: Your Honor, couldn't we ask defense counsel to just let us put on the testimony without so many interruptions.

Mr. Silets: If Mr. Hooker would conduct his examination as he knows he should. He is an experienced, able trial lawyer, and he knows the proper method of conducting examinations and I really feel somewhat embarrassed being a young man to try to correct Mr. Hooker's faults.

Mr. Hooker: I thought I knew how, too, until this morning, if your Honor please.

Mr. Brown: If your Honor please, I object to these side remarks of government attorneys in these matters. They are only issued for the purpose of being prejudicial to this jury. It is highly improper.

The Court: Yes, let's proceed.

Mr. Schiffer: May I ask for instructions, your Honor?

The Court: Yes, sir.

Mr. Schiffer: In view of what Mr. Neal has just stated, [fol. 3254] may I ask your Honor to instruct that when defense counsel make an objection they are making it as a matter of law what they conceive the law to be for the full protection of their client and to disregard the remarks made by Mr. Neal which is highly prejudicial as though he had a case to present in the first instance and we didn't have any defense.

The Court: Overrule the objection. Proceed.

By Mr. Hooker:

Q. State what the conversation was between you and Mr. King?

A. Well, Mr. King told me that he knew a Highway Patrolman either in that conversation or put it all together because there were several of them there.

Mr. Brown: I don't understand the answer, your Honor. He said either that conversation or all the conversations together. And I understood Mr. Hooker to ask him on this specific occasion.

Mr. Schiffer: That was the question.

The Court: Well, sustain the objection. Just answer the question that was asked.

Mr. Silets: May I ask that it be stricken and the jury disregard it, your Honor?

The Court: Overrule that request.

The Witness: Well, I would have to clarify my answer to this extent, we had several conversations. And in one [fol. 3255] of the conversations—

Mr. Brown: (Interposing) Your Honor, I object to him elaborating. Mr. Hooker asked him a specific question what conversation took place on the morning of October 26, 1962, and if this witness in his own mind cannot sepa-

rate them, then I think that in all fairness he should say I don't know on that date. He is not responding to the question. He is rambling and we object.

[fol. 3256] The Court: Overrule the objection.

Q. You mean you had several conversations with him that day?

A. Yes, sir.

Q. Well, can you separate those conversations, Mr. Partin?

A. I can separate one distinctly that one of the lady jurors—

Mr. Schiffer: May we have the time and place? This man is getting highly prejudicial testimony against my client. At least I believe we are entitled to the time and place and who was present.

The Court: Overrule the objection.

A. He stated that one of the lady jurors had a highway patrolman husband and he was going to have someone to try to contact the highway patrolman for him and he went on into detail about where they lived and said he knew some lady that lived out close to the highway patrolman about 70 miles that was a good friend of Mrs. Paschal's, he was going to get her to come into court and testify—, I don't mean testify, I am sorry, to talk to her and take her back home with her, go back home with her and see if he could get her to get her swayed toward Mr. Hoffa.

Mr. Brown: Now, if Your Honor please, if I may at this time and not interrupt but just for clarification, it's [fol. 3257] my understanding the witness is responding that this conversation was one that took place on October 26.

Mr. Berke: That's right.

Mr. Schiffer: Correct.

The Court: Proceed.

Q. Do you recall any other conversation that you had with the Defendant King that day, Mr. Partin?

A. Yes, sir. He told me that the highway patrolman and his wife had money but they loved money and $10,000.00 was a lot of money.

Mr. Schiffer: Your Honor, on behalf of the Defendant Parks, in view of these statements, I must again rise most respectfully and move for a mistrial or a severance on behalf of Mr. Parks. There is nothing this witness has testified to that connects Mr. Parks at all with this testimony.

The Court: Overrule the motion.

Mr. Schiffer: I ask Your Honor, Your Honor to kindly instruct the jury as a matter of law that when defense counsel rises to make an objection they should understand that the defense counsel have a right and an obligation to their client to make these objections when they see fit and that the jury should not draw an inference that counsel is trying to obstruct the trial itself, that this is an obligation that counsel must of necessity undertake to do.

[fol. 3258] The Court: Allow the jury to be so instructed.

Mr. Alexander: May it please the Court—

Mr. Berke: (Interposing) I didn't hear Your Honor.

The Court: I said allow the jury to be so instructed.

Mr. Alexander: Do I understand that Your Honor has a standing rule that any objections made by any defendant goes to the other defendants without having to rise?

The Court: Yes, unless the other defendants specifically state otherwise.

Mr. Alexander: State otherwise, yes.

Mr. Hooker: May I proceed now, if Your Honor please?

The Court: Yes, sir.

By Mr. Hooker:

Q. Do you recall any other conversation that you had with the Defendant King that particular day?

A. Yes, sir, he said the highway patrolman—

Mr. Schiffer: (Interposing) Objected to. May we have the time and place, Your Honor?

The Court: Overrule the objection.

A. He said that he knew where the highway patrolmen hang out. He was going out there but that the closest person to the highway patrolmen was deer hunting in Montana, [fol. 3259] that this fellow run around with a highway—

Mr. Brown: (Interposing) I didn't understand that last part of the question or the answer regarding about Montana. May I have the reporter read it back, please?

The Court: He said that the closest person to him was deer hunting in Montana.

Mr. Brown: Was deer hunting?

The Court: Was deer hunting in Montana.

A. He said that he would be the one that could get to him but that he ran around with him and drank with him.

Q. Do you recall anything else?

A. Yes, sir. He said he was going to circulate out in the neighborhood that afternoon with a highway patrolmen hang out, he was going to take a jury list with him so that he could get to some of his closer friends and see if they knew anyone on the jury that they could get to.

Q. All right. Now, on this particular Friday did you go home or stay in Nashville?

A. I believe I went home, it was a lot of dates in between, I'd have to have something.

Q. Do you recall, without referring to your hotel bill, when you returned to Nashville?

Mr. Schiffer: Objected to, Your Honor. There has been no testimony that he ever left Nashville up to this point. [fol. 3260] The Court: Sustained.

By Mr. Hooker:

Q. Well, did you stay in Nashville or leave, Mr. Partin?

A. I left.

Q. Do you recall when you came back?

A. Not the exact date, sir, I mean I couldn't swear to the exact date I came back.

Mr. Hooker: If Your Honor please, I want to pass this

statement to him which we offer for identification as Exhibit No. 99.

(The hotel bill referred to above was marked Government's Exhibit No. 99, for identification only.)

Mr. Silets: May the record reflect the witness is examining Exhibit 99 for identification?

By Mr. Hooker:

Q. Is your signature on that?
A. Yes.
Q. Pass it to counsel, Mr. Sertel. Does that refresh your recollection about when you were in Nashville?
A. Yes, it does.
Q. Now—

Mr. Berke: (Interposing) Just a minute, Your Honor, we can't—

Mr. Hooker: (Interposing) I beg your pardon, I'm sorry. [fol. 3261] I am sorry.

The Court: Let's proceed, gentlemen.

Mr. Hooker: Shall I proceed?

The Court: Yes, sir.

Mr. Haggerty: Wait a minute, I'd like to hear the testimony. I have got a function here, I have a duty to my client, Your Honor.

The Court: May we proceed?

Mr. Schiffer: Your Honor, in connection with this Exhibit No. 9 and the prior hotel exhibit of this witness may we ask the government to produce as part of these records the numbers of the long distance calls reflected by these hotel bills on each of the hotel records to complete this record?

The Court: Overruled.

By Mr. Hooker:

Q. On this occasion when you returned to Nashville did you make any long distance calls?

A. Yes, sir.

Q. Do you recall at whose request you did that?

A. Yes. I made two different dates—, I made two different calls but I believe that was the date I was calling Billy Wade.

Q. Who is Billy Wade?

A. He is a football player that was All American at [fol. 3262] Vanderbilt that Mr. Hoffa asked me if I knew. He asked me if—, did I know him and Phil King. He said that Phil King didn't matter so much because he understood he wasn't too well liked and so I told him I didn't know him but I had two football friends that did know him, Jimmy Taylor and Billy Cannon and he asked me would I get ahold of them for him and I called Billy Wade's residence and he wasn't in. Whoever was there told me he was in Chicago.

When I called Chicago I couldn't contact him there either.

[fol. 3263] Q. Were you ever able to reach him?

A. No, sir, I wasn't.

Q. Now, that is Billy Wade who lives in Nashville but you were trying to reach out of the city?

A. Yes, sir.

Mr. Branstetter: May it please the Court, he is trying to tell him what to say again and it has no relationship to any allegations in the indictment and we move it be stricken.

The Court: Sustain the objection.

By Mr. Hooker:

Q. Mr. Partin, what, if anything, did the Defendant Hoffa say to you about the call?

A. He told me that he wanted to get him to come into town and circulate around and see if he knew anyone he could get to on the jury and to come into the courtroom and shake hands and mix up with the defendants—

Mr. Schiffer: (Interposing) Objected to, your Honor,

on behalf of the Defendant Parks. That is becoming so highly prejudicial as far as Mr. Parks is concerned it is becoming a real Greek tragic comedy. I move again, your Honor, on behalf of Mr. Parks for a mistrial and severance because under no theory of the rules of law or evidence would he be related to Mr. Parks to protect his interest and I respectfully move as I have before.

[fol. 3264] The Court: Overrule the objections.

Mr. Haggerty: May it please the Court—

The Court: (Interposing) Let me complete my ruling on this, Mr. Haggerty. Overrule the motions. The jury would consider this testimony only if at all consider it only as to the Defendant Mr. Hoffa, and would consider it after all only as it might or might not bear upon any intention or purpose which he may have had or to have done any act or acts upon which he stands here indicted.

Mr. Haggerty: May I take exception to your Honor's ruling. You have invaded the province of the jury in my opinion and by stating that it was only for the Defendant Hoffa. The force of my original objection is this, that this is not a similar act. It is not anything that is contained in the indictment. It is totally extraneous to this case and further the patent falsity of the statement is that the witness has testified for the defendants forgetting there was only one Defendant Hoffa.

Mr. Branstetter: May it please the Court, I believe—

Mr. Haggerty: (Interposing) May I finish, Mr. Branstetter?

Mr. Branstetter: Sure.

Mr. Haggerty: And at this time, may it please the Court, I move for a mistrial because of the statement of the [fol. 3265] Court.

The Court: Overrule that motion.

Mr. Branstetter: This is the basis of the original objection that I made quite early and referred the Court to the Opper case. There I think the rules of evidence have been rather clearly established in the Federal Courts of the country, that is, that all this type of evidence now that

this witness has produced so far that does not relate to allegations in the indictment is certainly not admissible until such time as, if ever, proof is introduced as to what is technically known as the corpus delicti. I think, may it please the Court, if counsel could be instructed to proceed in accordance with the rules of evidence governing this particular type of case, that we would avoid many of these objections, much of this waste of time, and the necessity of counsel to consistently under the rules of evidence and the decided cases jump up and object insofar as Campbell or some of the other defendants are concerned. We must do this in order to preserve their legal rights and counsel should not proceed in this fashion.

The Court: All right. The Court believes it has given appropriate instructions.

Mr. Silets: Your Honor, I believe the Court at one time early in the trial had ruled on the order of proof in these matters where declarations were being made, or allegedly [fol. 3266] being made by a co-defendant outside of the presence of another co-defendant. Your Honor had ruled that there was a requirement of proof aliunde or the proof of a connection or some proof of agency.

Now, Mr. Hooker and the government is now trying to subvert your Honor's order which directed the manner and method of the order of proof. To date there is no proof aliunde to establish and permit this testimony to go in as to any of the defendants other than the person to whom he may be speaking at the particular time.

I think that as a result the government is now, as I suggest, subverting your Honor's order. I object to this line of questioning and I suggest that perhaps we might excuse the jury for a moment to argue this legal matter out.

The Court: Overrule the objection. Proceed.

By Mr. Hooker:

Q. Now, Mr. Partin, did you have occasion to be in Mr. Hoffa's suite later on that same day?

A. Yes, sir, I did.
Q. Did you see him do anything?

Mr. Haggerty: Just a moment, I object, there is no date that has been established as yet.
Mr. Hooker: Oh, yes, it has.
Mr. Haggerty: All right.

By Mr. Hooker:

[fol. 3267] Q. Speaking of the date that you registered at the Andrew Jackson Hotel, which has been, you stated, was October 29th. Still referring to that same day—

Mr. Haggerty: (Interposing) He didn't so testify.
The Court: Sustain the objection.
The Witness: I remember—
Mr. Haggerty: (Interposing) Objected to.

By Mr. Hooker:

Q. Let me ask you this question, was this the first day or subsequent day that you had come back to Nashville we are talking about now?
A. That was the first day.
Q. The first day. Do you recall that date?
A. No, sir, I cannot without checking the thing because sometimes I was in and out.
Q. Well, I pass you here Government's Exhibit No. 99 that you have identified as being your hotel bill, and ask you to state if that refreshes your recollection when you came into Nashville?
A. Yes, sir.
Q. And was this the day of the night of your arrival or the following day after your arrival this conversation took place?
A. I believe it was in the afternoon of the next day.
[fol. 3268] Q. Now, did you go—did you have occasion that same day to be in Mr. Hoffa's suite?

A. Yes, I did.
Q. Did you see him do anything unusual there that day?
A. Yes, sir.

Mr. Silets: Objection, your Honor, calls for a conclusion as to what is unusual.
The Court: Sustained.

By Mr. Hooker:

Q. What did you see him do?
A. Well, he took an Alkaseltzer because that was unusual, I had never seen him take medicine.

Mr. Silets: Objection, your Honor. May the witness be instructed to refrain from those side comments? Just answer the question.
The Court: Overruled.

By Mr. Hooker:

Q. Did you have a conversation with him at the time?
A. Yes, sir, he told me he thought the banker witness had hurt him, that day on the stand. Then he acted kind of upset and said, "I would pay $15,000 or $20,000—

Mr. Haggerty: (Interposing) I object to him acting upset.
[fol. 3269] The Court: Overruled.

A. He said he would pay 15 or $20,000, whatever—whatever it cost to get to the jury.

Mr. Schiffer: Now, your Honor, at this time on behalf of Mr. Parks I must respectfully move for a mistrial, for a severance, and in the alternative for a dismissal of the indictment as it applies to my client, Mr. Parks, and I suggest, your Honor, at this time that the government join with me in offering a stipulation for a severance because the government now consciously knows it is proceeding on a course on which there is a deliberate attempt on the part of the gov-

ernment to prejudice Mr. Parks because his whole defense with this jury, and they are going to persist in accordance with the way they set this indictment up and I so offer the objection.

[fol. 3270] The Court: Overrule the motion.

By Mr. Hooker:

Q. Now, on the following day, which would have been Tuesday, October 30th, did you go to the courthouse that day?

A. Yes, sir, I did.

Q. Did you go with any of the defendants in this case?

A. I am not sure, I imagine some of them were in the crowd.

Mr. Schiffer: Objected to.

Mr. Brown: Objection.

Mr. Silets: Objection.

The Court: Sustain the objection.

By Mr. Hooker:

Q. Did you see Mr. King at the courthouse?

Mr. Brown: Your Honor—

A. (Interposing) Yes, sir, I did.

Mr. Brown: I object to Mr. Hooker attempting to put the answer in this witness' mouth. He asked him who was with him. If any of these defendants, and he said he imagined and then Mr. Hooker specifically points out the Defendant King.

The Court: Overrule the objection.

By Mr. Hooker:

Q. Did you see Mr. King at the courthouse?

A. Yes, sir, I saw Mr. King.

[fol. 3271] Q. Whereabouts at the courthouse?

A. He and I were standing outside of the door in the

lobby part, he was smoking or talking, I don't remember for sure whether he was smoking or just talking.

Q. Did you have a conversation with him?

A. Yes, I did.

Mr. Silets: Could we establish, your Honor, who was present at this conversation so we may accurately ascertain whether it's admissible against any other person?

The Court: All right.

By Mr. Hooker:

Q. Was anyone else present?

A. Not in our presence, no, sir, some more in the hall.

Mr. Silets: Your Honor, I move that whatever conversations are going to be related, since it was not in the presence of the Defendant Dorfman, that the jury be directed specifically to disregard it.

The Court: The jury will observe the same instructions I have heretofore given to them in regard to the statements made out of the presence of one or more of the defendants.

Mr. Hooker: May I proceed?

By Mr. Hooker:

Q. State what was said, Mr. Partin.

[fol. 3272] A. He pointed out a heavy-set, dark-haired lady that was sitting in the courtroom with another gentleman, and he identified the man as the lady's husband. He said she was the one that came up to see if she could go home with Mrs. Paschal and talk to her and then later after the court had recessed he told me she had gone home with her.

Q. Do you know who that lady was?

A. No, sir, I don't know her.

Mr. Schiffer: Objected to, if your Honor please. Object to this line of questioning. The witness obviously is not testifying of his own knowledge. He is repeating something now which is rank hearsay, certainly so far as the Defen-

dant Parks is concerned, and as to him I move that the answer be stricken.

The Court: Overrule the objection with the same instructions to the jury.

By Mr. Hooker:

Q. Now, on that same day, Mr. Partin, that I have been asking you about, Tuesday, October 30th, did you have any occasion to make—to call your office?

A. Yes, sir, I called my office and—

Mr. Schiffer (Interposing): Objected to.

Mr. Brown: Object.

Mr. Schiffer: He answered the question.

Mr. Hooker: All right.

[fol. 3273] By Mr. Hooker:

Q. Did you call your office?

A. Yes, I did.

Q. Did you get any information about any call that you had?

Mr. Schiffer: Objected to, your Honor. It's entirely hearsay.

The Court: Sustain the objection.

Mr. Hooker: To the form of the question, if your Honor please?

The Court: Well, he would not be permitted to testify what information he got.

Mr. Hooker: I don't want to ask him about anything that was said, but I want to ask him about any information he had about the call.

Mr. Silets: Your Honor—

The Court (Interposing): Sustain the objection.

Mr. Hooker: All right.

By Mr. Hooker:

Q. Well, after you called your office did you make a telephone call yourself?

A. Yes, sir.

Q. Who did you call?

A. I called a Mr. Nicholas Tweel.

Q. And is that the same Mr. Tweel that you previously [fol. 3274] identified?

A. Yes, it is.

Q. Did you recognize his voice?

A. Yes, sir, because I had talked to him before.

Q. And what did he say or what was said in the conversation?

Mr. Schiffer: Objected to, your Honor. Now, your Honor, we are going into Mr. Tweel's portion of this indictment I offer the same objection and I move the Court in the way I have before for a severance and a mistrial or dismissal as to this particular count.

Mr. Silets: Your Honor, I would like to object on behalf of Mr. Dorfman because obviously Mr. Dorfman can't be bound by what Mr. Tweel may have said to this man and the jury could then reflect upon what this man said to Mr. Tweel. Mr. Dorfman is entitled to have the evidence against him alone considered by the jury specifically.

The fact that somebody may have said the moon was going to explode tomorrow doesn't mean that it's going to be held against Mr. Dorfman. I don't know what he intends to say as between Mr. Tweel and himself, but I think the jury is entitled to be told specifically by this Court that this should not be held against Mr. Dorfman.

The Court: Overrule all of the objections and the jury will observe the same instructions that the Court has here- [fol. 3275] tofore given as to the statements allegedly made by one of the defendants out of the presence of the other defendants.

Mr. Schiffer: Your Honor, it's 11:00 o'clock. I was wondering if you would consider a short adjournment?

The Court: All right. Let's take a 10-minute recess. Mr. Partin, do not discuss your testimony or allow anyone to talk with you about it during the recess.

(Thereupon, a recess was had.)

[fol. 3276] (Thereupon, pursuant to the recess, court was in session.)

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and the following proceedings were had, to-wit:)

(Thereupon, the witness Partin returned to the witness stand.)

Mr. Schiffer: Your Honor, before Mr. Hooker proceeds, may we have an understanding that we have a standing objection upon the same grounds we have mentioned heretofore that unless something extraordinary arises which I deem a specific objection should be made that we have a standing objection to all the testimony of this witness for the same grounds which I have stated before? Then it would obviate the necessity of my rising as counsel for the Defendant Parks.

The Court: Very well, Mr. Schiffer, the Court can see no reason why we might not proceed in that manner and allow the jury to bear in mind the instructions the Court has heretofore given to them in regard to the statements of any defendant made out of the presence of any other defendant.

Mr. Schiffer: Yes, sir.

By Mr. Hooker:

Q. May I have the last exhibit there, the hotel bill? Mr. Partin, you have previously identified this—, would you [fol. 3277] pass it to him, Mr. Marshal?

A. Yes, sir.

Q. Does that show the last day that you were in Nashville on that trip?

A. Yes, sir, it does.

Q. Well, I want to direct your attention to that last day and ask you if you made a telephone call from the airport.

A. Yes, I did.

Q. At whose request did you make this call?

A. Mr. Hoffa's.

Q. And whom did you call?

A. I called for Mr. Allen Dorfman.

Q. Were you able to reach him?

A. No, sir. The number that Mr. Hoffa had given me wasn't the correct number.

Q. And you never did reach him?

A. No, sir, I didn't.

Q. Now, do you recall the next trip that you made to Nashville, that is, by date?

A. Not—, I would have to look at it.

Q. Well, would your recollection be refreshed by referring to your hotel registration?

A. Yes, it would. Yes, sir.

Mr. Hooker: We offer that, if Your Honor please, for [fol. 3278] identification as government's Exhibit No. 100 and pass it to counsel.

The Court: All right.

(The hotel bill record referred to above was marked Government Exhibit No. 100, witness Partin, for identification only.)

By Mr. Hooker:

Q. Would you hand this back to the witness? What was the date of your arrival, Mr. Partin?

A. On the 4th day of November.

Q. And that was on a Sunday, according to this calendar here?

A. Yes, sir.

Q. Now, on the following day, on Monday, I want to get you to state if you had a conversation with the Defendant Hoffa?

Mr. Berke: If Your Honor please, just a minute, we would like instead of him suggesting the time and all that, find out what day it was and so forth instead of Mr. Hooker

doing this. I think the Court has stated to Mr. Hooker to let the witness himself fix the time instead of letting Mr. Hooker do it. I don't think that he should just go ahead and fix a time and then have the witness just go ahead and parrot right after him.

[fol. 3279] The Court: I believe under these circumstances I will overrule the objection. The Court has called the witness' attention to a particular time.

Q. Referring Mr.—, I'm referring Mr. Partin, to a conversation with the Defendant Hoffa and the Defendant King together. Did you have such a conversation?

A. Yes, sir.

Q. Do you remember what time it was, about?

A. I believe it was in the morning.

Q. In the morning?

A. Uh-hmm.

Q. And do you recall where it was?

A. In the hall, I am pretty sure it was in the hallway.

Q. Of what hallway, of what?

A. Andrew Jackson Hotel.

Q. Andrew Jackson Hotel. And what took place in that conversation, just tell the jury.

A. Well, Mr. Hoffa said that he was raising cain at Mr. King, said he wasn't doing what he told him to do. He told me he said that, "King keeps telling me he can get the patrolman but he don't get to him." He said, "He keeps talking about it and fumbling around." And either in that conversation or the one after it he called him a fumbling—

[fol. 3280] Mr. Brown: (Interposing) I object to that unless he is going to tell when the other one is supposed to have taken place.

The Court: Sustained.

By Mr. Hooker:

Q. Do you recall anything else he said in that particular conversation?

A. I believe he is supposed to have had the contact made.

Mr. Brown: I object to what he believes, he is drawing a conclusion now.

The Court: All right.

By Mr. Hooker:

Q. Did you have any further conversation with him that day?

Mr. Brown: Your Honor—

A. (Interposing) Yes, I did.

Mr. Brown: If he is referring to that day, he already said, Mr. Hooker asked him in reference to King and Hoffa, now he is saying, "Did you have any conversation with him."

Mr. Hooker: Well, with them, I stand corrected, with them together.

Mr. Haggerty: Well, I object unless he establishes what time of day.

[fol. 3281] The Court: Overrule the objection.

A. Yes, sir, I had a conversation with them more that day.

Q. Do you remember about approximately what time that was, do you have any recollection about that?

A. It was after the other conversation there when Mr. King and I had the conversation. He told me that he understood that the highway patrolman had been called in by his boss, the Director of Public Safety.

Mr. Haggerty: I object unless he indicates who is speaking.

Q. Who is speaking now?

A. Mr. King.

Q. Mr. King. All right.

A. And his boss had told the highway patrolman, told

him he understood his wife was on the jury, he wanted to be sure there was a fair trial.

King told me he thought the highway patrolman still would go along. He said he was supposed to meet him the following Sunday at a spring in the back of a farm, that they was going to take coon dogs so if anyone came upon them they could say they was coon hunting and the meeting was supposed to take place at 12 o'clock that night.

Q. Now, what was the last day that you were here on this trip?

[fol. 3282] A. November the 7th.

Mr. Schiffer: May the record indicate the witness looked at Exhibit No. 100 to see what date? He is not testifying from his own recollection and memory but from the exhibit itself.

Q. Did you— May I proceed, if Your Honor please?

The Court: Yes.

Q. Did you leave Nashville that day?

A. Yes, I did.

Q. And where did you go?

A. I went back to Baton Rouge; excuse me just a minute, let me check the dates on this. No, sir, I think that was when I went to Dallas, Dallas, Texas.

Q. You went to Dallas, Texas?

A. Yes.

Q. You think from Nashville on that occasion?

A. Yes, sir.

Mr. Schiffer: Objected to, he didn't say he thinks, he definitely made the assertion he did.

Mr. Berke: Mr. Hooker means this occasion when he had this conversation with King? We can't tell what occasion he is talking about.

Mr. Hooker: This is the following day, Mr. Berke.

Mr. Berke: The following day after the King conversation?

[fol. 3283] Mr. Hooker: That's right, yes, sir.
Mr. Berke: All right.

By Mr. Hooker:

Q. Now, on this last day that you were in Nashville on that occasion, that particular trip, did you have occasion to go to Mr. Hoffa's suite before you left?

A. Yes, sir, I did.

Q. Do you recall what other people were there in the suite at that time?

Mr. Schiffer: Object to the form of the question.
[fol. 3284] The Court: Overruled.

The Witness: I believe that Mr. Steinberg, who ran the office for the International was there and Mr. Kossman I believe was there. Several maybe in and out that I wouldn't know but I believe I distinctly remember those two.

By Mr. Hooker:

Q. Did you have a conversation with Mr. Hoffa on that occasion?

A. Yes, sir.

Q. Was Mr. Steinberg present when you were talking to Mr. Hoffa or what did take place about that?

A. Mr. Steinberg, as I recall, was standing inside Mr. Hoffa's room with him and I went to the door and told Mr. Hoffa that I was fixing to leave and was talking to him in general. He asked me to come in. And motioned to Mr. Steinberg to step out. I pushed the door partway to. He told me at that time, I told him I thought the trial didn't look too well. When he got to talking to me, he said, "Well, don't worry about it too much." He said, "Because I have got the colored male juror in my hip pocket."

He said, "One of my business agents Campbell came into Nashville prior to the trial and took care of it."

Mr. Branstetter: Now, may it please the Court, I want to object to this insofar as Campbell is concerned and move for a mistrial at this point and/or a severance on the basis [fol. 3285] that this witness is apparently repeating by rote what he has I believe memorized or gone over before here from what Mr. Hooker is reading.

The Court: Overruled.

Mr. Branstetter: A statement made outside the presence of Defendant Campbell. There has been no relationship established here that would make it competent under any theory. This witness on yesterday and today repeatedly has been given a cue and gone forward with information not in many instances related to the question asked.

The Court: Overrule the objection. The jury will observe the same instructions with regard to it.

The Witness: He told me that Campbell was kin to the juror. Kin to the juror. And that he wouldn't take any money but he wouldn't go against his own people. He told me he was an old retired railroad worker. He fished all the time. Sat and fished and didn't have a care in the world. Said didn't worry anyone. Said it looks like our best bet is a hung jury unless we can get to the foreman of the jury. He said, "If they have a hung jury, it will be the same as acquittal because they will never try the case again."

By Mr. Hooker:

Q. Now, after this conversation did you see the Defendant Ewing King?

A. Yes, sir, I had a brief conversation with him.

[fol. 3286] Mr. Brown: Your Honor, we would like to know where and what time this is supposed to have taken place.

Mr. Hooker: All right, I will ask him.

By Mr. Hooker:

Q. Where did you see the Defendant King?

A. In the lobby going out of the hotel.

Q. Do you mean downstairs in the main lobby of the hotel?

A. Yes, sir.

Q. Did you have a conversation with him?

Mr. Brown: Your Honor, I would like to know when I mean, the date as best he can fix it in his mind as to when this is supposed to have happened. It is very important to the defense of this man.

Mr. Hooker: He has fixed the date, if your Honor please.

The Court: Overrule the objection.

Mr. Brown: May I ask what date?

Mr. Hooker: Wednesday, November 7th, he said the last day that he was here on that occasion.

By Mr. Hooker:

Q. Do you remember about what time of the day it was that you ran into Mr. King in the lobby of the Andrew Jackson Hotel?

A. I believe it was after lunch. I'm sure it was.

[fol. 3287] Q. After lunch. And what was said in that conversation, Mr. Partin?

A. Well, he told me that Hoffa was on his—

Mr. Branstetter: (Interposing) May it please the Court, may I interrupt at this point to request to the Court that the Court specifically now instruct the jury with reference to the statements made by some third person that is not being in the presence of Defendant Campbell with reference to the fact that they are not to consider this in any manner unless the Defendant Campbell is present.

Mr. Neal: Your Honor, that is not even an accurate statement of the law. Your Honor has charged an accurate statement of the law. We have put on a lot of proof here now with respect to all defendants and at some point I think maybe the Court, we have talked about this before the jury is entitled to find conspiracy or principal-agent.

The Court: The Court has heretofore instructed the jury with regard to in what manner it may or may not consider testimony allegedly giving the statements of one defendant out of the presence of another defendant and if the Court deems it necessary and appropriate to repeat the instructions from time to time, I will do so. But I repeated it, I believe, upon two occasions yesterday and have repeated it upon other days. I would just call the jury's attention to those previous instructions.

[fol. 3288] Mr. Branstetter: Of course, we except to the Court's ruling in not giving a complete and detailed instruction as to the law dealing with evidence at this point.

The Court: All right.

By Mr. Hooker:

Q. Do you recall what the conversation was, Mr. Partin?

A. Well, he said Mr. Hoffa was on his rear end about not getting to the jury like he told him he would. He said supposed to have contact made with the Highway Patrolman. And I think he said the fellow was still deer hunting.

Mr. Schiffer: Objected to unless he testifies from memory, your Honor.

The Court: Overruled.

The Witness: Said the party he had the contact with was still deer hunting.

Mr. Brown: Still what, your Honor?

The Court: Still deer hunting.

Mr. Hooker: Still deer hunting.

By Mr. Hooker:

Q. Now, Mr. Partin, I believe you stated that you left Nashville that day?

A. Yes, sir.

[fol. 3289] Q. Do you recall just from your own memory exactly when you returned?

A. The next afternoon, I believe.

Q. Well.

A. I am not positive.

Q. Well, I want to show you the hotel registration here and ask you if that refreshes your recollection about when you came back after this trip, I mean on the next trip?

A. Yes, sir.

Mr. Hooker: We offer that as Government's Exhibit 101.

(The hotel bill referred to above was marked Government's Exhibit No. 101 for identification.)

Mr. Hooker: Pass it to counsel.

The Court: While we are waiting for the examination of this exhibit and to refresh the recollection of the jury, I would repeat again the instructions that I have heretofore given you.

I would refer you again to the instructions I have given you previously concerning situations in which evidence may be admissible to one or some but less than all of the defendants. Should this witness testify as to conversations heard by him from any defendant herein, bearing in mind that those instructions, I would instruct you further if the jury believes from the evidence in the record, other [fol. 3290] than hearsay statements here sought to be introduced or hearsay statements heretofore introduced, that an agency or a conspiracy existed between the particular defendant whose conversations or statements are testified to and any other party defendant then such statements may be considered as against the particular defendant whose conversations or statements were given and against any other defendant who is shown by such other evidence to be a principal or to be a co-conspirator.

It will not be considered as to any other defendant, however, unless the jury finds from other evidence in the case, excluding hearsay statements, that the particular defendant whose statement is given or quoted by the witness was at the time of the statement acting within the scope or course of the agency with such other defendant or, second, that he was a party to a conspiracy with another defendant

and the statements attributed to him were made in furtherance of this conspiracy and at a time when the conspiracy was in effect.

You recall that I have given that same instruction to you upon a previous occasion.

Mr. Silets: Your Honor, may the Court also instruct the jury very carefully that in order to establish this agency or conspiracy they cannot consider the statements being made which themselves are outside of the presence of [fol. 3291] co-defendants, there must be other independent proof and they cannot consider the hearsay statements themselves in order to be the basis upon which to define an agency and upon that basis of an agency then consider the hearsay statement. This would be pulling themselves up by their own boot straps.

The Court: I believe the Court has given the correct and proper instruction.

Mr. Neal: May it please—

Mr. Branstetter: (Interposing) May it please the Court, we handed in a brief on this matter previously objecting to the method and the wording of this particular instruction. We would object on the same basis and resubmit that particular brief.

The Court: All right.

Mr. Neal: I am not sure the Court has instructed on this, that is, in determining whether one person is an agent of another or another person is a principal of another person who is his agent or their co-conspirators or joined in the conspiracy, the jury may consider a person's own action and statements in determining whether he is a member of the conspiracy or not. In other words, statements made, evidence of statements made by the Defendant Hoffa may be considered to determine if the Defendant Hoffa joined in the conspiracy. I think that is true according to Poliafico vs. United States, Sixth Circuit.

[fol. 3292] The Court: I believe the Court has given the proper instruction.

Mr. Hooker: May I proceed?

The Court: Yes, sir.

By Mr. Hooker:

Q. Mr. Partin, on the occasion of the first day of your return on the occasion in question there, did you have any occasion to meet any member of Mr. Hoffa's family?

A. Yes, I saw his son in the room.

Q. Do you remember any other people that you saw in the room on that occasion?

Mr. Haggerty: Well, now, may we have a date, your Honor? The record is void.

Q. Well, what is the date?

A. The first day I was back I went up there, it was the 14th of November.

Q. All right. Now, I believe it shows according to the calendar over there that was on a Wednesday?

A. Yes, sir.

Q. All right. You met Mr. Hoffa's son?

A. Um-hmm.

Q. Is that right?

A. Yes, sir.

Q. Do you remember any other persons that you met in the suite there that day?

[fol. 3293] A. I believe Mr. Buffalino was in there and a fellow Al Chavez, I believe that there came in a fellow, a Mr. Kuno or Cunio or something like that.

Q. Joe Kuney?

A. I know him from his job, I can't pronounce his—he's out of International headquarters.

Q. Did you hear any conversation there on that occasion between Mr. Hoffa and Mr. King?

A. Yes, he was chewing Mr. King out pretty good.

Mr. Berke: If your Honor please, I was listing to who all he called out and I don't remember him even mentioning Mr. King in there.

Mr. Brown: He sure hasn't laid a foundation.

Mr. Berke: Then Mr. Hooker and the witness mentioned Mr. King.

The Court: I believe I will sustain the objection.

Q. Who else was there?

A. Well, let's see, so many people in and out of the place. Mr. King was there because the conversation was concerning him. I believe Mr. Steinberg was there, I think.

Mr. Brown: Your Honor, we object to what he is trying to conjecture now in his mind. If he knows. I think Mr. So-and-so—

The Court: (Interposing) Overrule the objection.

A. Mr. Kossman, I believe was there.

[fol. 3294] Q. Well, did you hear a conversation between Mr. Hoffa and Mr. King?

A. Yes, I did.

Q. And what was stated?

A. He was on him again about making a contact—not making a contact like he told him he would, and he wanted some insurance.

Q. Was there any telephone call made on that occasion that you remember?

A. About which, by which party?

Mr. Schiffer: Object to. Let's get the evidence from the witness, not from Mr. Hooker.

A. Telephone calls were being made all of the time. I mean by who?

Q. Well, by—

Mr. Schiffer: (Interposing) Objected to. Let the witness establish, we don't want leading questions now which give the answer to the witness.

The Court: Overrule the objection.

Q. A telephone call made there that day by Mr. Hoffa?

A. Yes, sir, Mr. Hoffa was talking on the telephone concerning a loan for a motel.

Q. Do you know to whom he was talking?

Mr. Schiffer: Objected to.

A. No, sir.

[fol. 3295] Mr. Schiffer: It's inconceivable—

The Court: (Interposing) Sustained.

A. Mr. Maher was on the phone prior to Mr. Hoffa getting on the phone. They were evidently talking to New York.

Mr. Brown: Now, your Honor.
The Court: Sustained.

A. They were talking—

Mr. Brown: Objection.
Mr. Schiffer: Objected to. Now, this witness knows better and we ask the Court to caution this witness not to proceed that way.
The Court: You cannot tell any parts of any matters which you did not hear.

A. Well, I heard them discussing the LaGuardia Airport Motel, that they were trying to get a loan on it.

Mr. Berke: What did he say, your Honor, I didn't get that?
Mr. Hooker: They were discussing what airport?
The Witness: LaGuardia Airport.
Mr. Hooker: Motel about a loan.

[fol. 3296] By Mr. Hooker:

Q. Now, Mr. Partin, did you go to the United States District Court to the trial that was in progress in Nashville that day?
A. Yes, sir.
Q. After the trial, where did you go? And after you left the courthouse, do you remember where you went, where the group went?
A. I can't recall right off where the group went, no, sir.
Q. Well, were you back in the suite at any time that day?
A. Yes, sir, I was.

Mr. Schiffer: Objected to, Your Honor. Mr. Hooker is testifying.
The Court: Overrule the objection.

By Mr. Hooker:

Q. And in the suite there in the hotel, did you hear any conversation between Mr. Hoffa and Mr. King?

A. I can't recall the conversation right off, no, sir.

Q. Do you recall a conversation that you had with Mr. King?

A. Yes, sir.

Mr. Schiffer: Objected to, Your Honor. He said he had [fol. 3297] no recollection.

The Court: Overruled.

By Mr. Hooker:

Q. You do recall a conversation that you had with Mr. King?

Mr. Schiffer: Object to the form of the question, Your Honor.

The Court: Overruled.

By Mr. Hooker:

Q. Where did that take place?

A. It was in the room.

Q. Andrew Jackson Hotel?

A. Yes, sir.

Q. Do you recall what was said?

A. I think it was concerning making a contact with the highway patrolman.

Mr. Brown: Your Honor, I object to what he thinks. If he knows he can state, otherwise I ask the Court to have it stricken from the record. Strictly a conclusion on his part.

The Court: Overruled.

By Mr. Hooker:

Q. Is that your best recollection about Paschal, the highway patrolman?

A. Yes, sir, it was.

[fol. 3298] Q. Do you remember what was said?

A. He said that he was supposed to have his contact made with the highway patrolman. That he was going out to a friend's house. That they were going to take their wives and they were going out to the house of a friend that no one would ever suspect. They were going to have their wives with each one of them in case someone asked them they were going to say discussing police conditions. That they were supposed to arrange a meeting with the governor or Governor-elect Clement. I'm not sure which one. In regard to highway conditions, what they were going to tell the people.

Q. Later on that day, same day, did you have any occasion to see the Defendant Hoffa and the Defendant King in the hall of the hotel?

A. Yes, sir.

Q. Did you hear any conversation between them at that time?

A. Yes, sir. Hoffa called Mr. King a stupid S.O.B. for thumbing around and not getting the job done.

Mr. Silets: Your Honor, I'm going to ask that the jury be instructed that this conversation and the prior conversations between this witness and Mr. King or this witness, Mr. King and Mr. Hoffa, are not applicable to Mr. Dorfman, not being in his presence and that the jury be directed to disregard it.

[fol. 3299] The Court: The jury will observe the instructions I have just heretofore given.

By Mr. Hooker:

Q. Is that the extent of it?

A. Yes, sir. He was just raising cain—

Mr. Branstetter: (Interposing) Now, may it please the Court, he just said that was the extent of it.

The Court: Overruled.

By Mr. Hooker:

Q. Do you recall anything else that was said, Mr. Partin?

A. No, sir, knew what the conversation was about. That is why I was saying he was cursing and carrying on about it, calling him a S.O.B. about it.

Q. All right, now, when was the last day that you were in Nashville on that occasion?

A. I would have to look at this, sir. I don't know offhand. On the 15th of November.

Q. That would have been the calendar would appear to be on Thursday?

A. Yes, sir.

Q. Were you in Mr. Hoffa's suite on that day?

A. Yes, I was.

Q. First I want to ask you, if during that day you had any conversation with the Defendant King?

[fol. 3300] Mr. Brown: Your Honor, we would like to have it if we may whether it was morning or evening or when the conversation is supposed to have taken place and the place that the conversation is supposed to have happened at.

The Court: Overrule the objection.

The Witness: Yes, sir, I had a conversation with him.

By Mr. Hooker:

Q. Do you remember about what time that was, Mr. Partin?

A. No, sir, I couldn't swear to what time it was.

Q. I see. But it was sometime during the last day that you were here on that trip?

A. Yes, sir.

Q. Do you recall what was said by Mr. King or by you?

A. We were discussing the contacts to be made with the patrolman. But I don't remember the exact extent of the conversation. I know it concerned the patrolman.

Q. Now, later on, did you go to court that day?

A. Yes, sir, I think I did, yes, sir.

Q. After the court's adjournment, did you have occasion to see Mr. Hoffa any that afternoon?

A. Yes, sir.

Q. And was Mr. King present at that time?

[fol. 3301] Mr. Schiffer: We object to the form of the question, Your Honor. It is a leading question.

The Court: Overrule the objection.

By Mr. Hooker:

Q. Was Mr. King present at that time?

A. Yes, sir, he was present.

Q. Do you remember where that was?

A. That was in the big room.

Q. Big room at the hotel?

A. Yes, sir.

Q. And was anyone else present that you recall now except Mr. Hoffa and Mr. King and yourself?

A. Not off-hand, no, sir. Like I say, there was so many coming and going I wouldn't—

Q. (Interposing) Do you remember what that conversation was?

A. He asked him how things were looking as best of my recollection. And had he made the contacts. He said he didn't think he would need to because things looked pretty good.

Q. All right, now, I believe you have already stated you left that day.

A. Yes, sir.

Q. Can you recall the exact day that you returned on without refreshing your recollection?

[fol. 3302] A. No, sir, because one date I went—

Mr. Schiffer: Objected to. He said no. He answered the question.

The Witness: I can't answer you yes or no without qualifying my answer.

Mr. Schiffer: Objected to, Your Honor. He has answered the question that was put to him.

The Court: Overrule your objection.

The Witness: The reason I'm confused is because I would have to see the record because I went to Dallas at one meeting during that and came back from Dallas.

By Mr. Hooker:

Q. Did you go to Dallas to some meeting?
A. Yes, sir, to a grievance committee hearing.
Q. All right, I hand you here your hotel bill at the Andrew Jackson Hotel and ask you—

Mr. Schiffer: May we just have the document delivered to the witness as is usually done without all the fancy talk and describing by counsel rather than the witness, Your Honor? He knows the rules.
Mr. Hooker: I think I do.
Mr. Schiffer: Let's please observe it.

By Mr. Hooker:

Q. Is that your hotel bill?
A. Yes, sir, it is.
[fol. 3303] Q. Is your name signed to that and is that your signature?
A. Yes, sir.
Q. When did you arrive in Nashville on that occasion?
A. November 19th.
Q. November 19th?
A. Yes, sir.

Mr. Hooker: We offer that, if Your Honor please, as government's Exhibit No. 102.
Mr. Silets: Being offered in evidence?
Mr. Hooker: Offered for identification. Ask that it be marked and passed to counsel.
The Court: Very well.

(The hotel bill record referred to above was marked Government Exhibit No. 102, witness Partin, for iden-

The Court: May we proceed?
tification only.)

[fol. 3304] By Mr. Hooker:

Q. Now, Mr. Partin, you stated that you arrived here on November the 19th. I want to direct your attention to the following day, the day after you arrived there that night, the night before, and get you to state if you had any conversation with Mr. King the next day in reference to an automobile.

A. Yes, sir.

Mr. Schiffer: Object.

Mr. Brown: We'd like to know where this conversation took place.

Mr. Hooker: I'm going to ask him where.

Mr. Brown: Where.

Mr. Silets: He's suggesting.

Mr. Brown: The place.

Mr. Silets: He's suggesting the conversation that he wants to have covered, Your Honor. If that's a conversation Mr. Hooker knows the proper way for him to relate the entirety of the conversation.

The Court: Sustain the objection.

By Mr. Hooker:

Q. Well, did you have a conversation, did you or not have a conversation with Mr. King?

A. Yes, I did.

Q. Where did it take place?

[fol. 3305] A. At the hotel, Andrew Jackson.

Q. Andrew Jackson. In the lobby, in the suite, or where?

A. We were standing in the lobby at this time.

Q. Standing in the lobby?

A. Uh-hmm.

Q. Well, will you tell His Honor and these ladies and gentlemen of the jury just what was said in that conversation?

A. Yes, sir. He said that he had got a call which was a signal that he was going to meet with a fellow to— The beagle hound had dropped dead at ten o'clock, that was supposed to be the signal he made the contact with the

highway patrolman. He said that he got Mr. —, I can't recall the gentleman's name, Broda, to switch cars with him and lead the FBI in an outlying town, mislead them away.

He said he went on out to the highway patrolman's house and met him on a dirt road and he said at first he didn't want to get in the man's car because of the fact that he thought it was bugged. He said then he talked to the highway patrolman. He said the highway patrolman told him that he didn't know whether he could talk to his wife directly or not because he and she wasn't getting along too well but he could talk to her morning, noon and night and try to convince her to vote with him.

[fol. 3306] King said that he refused the money but that he wanted to get a promotion because he had been a corporal for a long time, had been, I think he mentioned several years, seven or eight years that he had been a corporal, he wanted to get promoted on it.

He said that he had had word from—, I think they call it some detective bureau, State Detective Bureau of some kind, that if he was contacted by Mr. King to report it.

He said the reason he wouldn't report it was to let Mr. King know that he was on the up and up with him and King told me that he had a friend with him to witness anything that went on so if the Highway Patrolman talked on him he could say they didn't say that and later—

Q. (Interposing) Now, go ahead.

A. Excuse me. Later he said when he was coming in he felt he was going to be contacted by the FBI, he said because when he drove up someone had the hood of their car up blocking his driveway where he couldn't turn in and he said they told him they would be gone in a few minutes, they would be out of the way, and he said he knew that that was the FBI, that he expected to be called in and questioned the next day and he said that what they were going to do on the following week end was to get a bunch of people together and lead them off down a one-way street [fol. 3307] or up in an alley and in effect work them over. I don't want to relate the words what he said he was going to do to them but he was tired of them following him everywhere he went.

Q. Now, later—

Mr. Silets: (Interposing) Your Honor, I move for a mistrial or in the alternative for a severance because this conversation apparently outside of Mr. Dorfman's presence is so patently perjured or prejudicial or both that no matter what kind of instruction the Court gives this jury they cannot distinguish, no reasonable person could separate in their minds what apparently he allegedly says that Mr. King told him and I ask the Court, in all fairness to either have a mistrial as to Mr. Dorfman or he be granted a severance.

[fol. 3308] The Court: Overrule the motion.

Mr. Schiffer: May I make the same motion on behalf of Defendant Parks at this time, your Honor?

The Court: All right.

Mr. Schiffer: For the additional reason that this witness now has impeached all the former testimony on the same issue and now to have our witness, Mr. Parks, subjected to the penalties which can be placed upon him by matters which are not even connected with him, your Honor, and at this point I must join in the same motion.

The Court: Overruled.

Mr. Branstetter: Same motion on behalf of Defendant Campbell, may it please the Court.

The Court: All right, overruled.

By Mr. Hooker:

Q. Mr. Partin, on that same day of this conversation with Mr. King, state whether or not you had a conversation with Mr. Hoffa?

A. Yes, I did.

Q. Where did that take place?

A. In his room, not in his room, but in 740.

Q. In 740?

A. Yes, sir.

Q. Was anyone else present except you and Mr. Hoffa?

A. Not in the immediate presence, no, sir.

[fol. 3309] Q. What was said in that conversation?

A. Well, he was very upset because the Highway Patrolman didn't take the money, he said if he would have taken—

Mr. Haggerty: (Interposing) I object to that as calling for a conclusion, may it please the Court, on the part of this witness.

The Court: Sustain the objection. He can testify what he said.

A. He said that he was disturbed because the Highway Patrolman wouldn't take the money. He said if he had of taken the money it would have pinned him down and he couldn't have backed up.

Q. Did he state anything else or say anything about Mr. King?

Mr. Silets: Objection, your Honor.

The Court: Sustain the objection.

Mr. Brown: Your Honor, Mr. Hooker—

A. (Interposing) He was—

Mr. Branstetter: (Interposing) May it please the Court, Mr. Hooker knows the objection—

The Court: (Interposing) Sustained.

The Witness: I am sorry.

By Mr. Hooker:

Q. Well, do you recall anything else that was said in the [fol. 3310] conversation, Mr. Partin? If so, state it.

A. He was agitated at Mr. King.

Mr. Haggerty: Well, I object as calling for a conclusion.

The Court: Sustained.

By Mr. Hooker:

Q. Don't state your opinion about that, just what you remember, anything else that was said?

A. I couldn't specifically state exactly what was said, no, sir, I don't remember in detail. If I had something—

Mr. Brown: (Interposing) Your Honor, the witness just continues to ramble on and Mr. Hooker won't stop. We would ask the Court to see if he could stop him.

By Mr. Hooker:

Q. To refresh your recollection—don't answer this until the Court rules on it—

Mr. Berke: Just a minute, if the Court please, that in itself would be leading, just to start it off like it is.

Mr. Hooker: I've got a right.

The Court: Sustained.

Mr. Hooker: Your Honor holds that I can't refresh his recollection about a particular matter that I want to inquire into?

[fol. 3311] The Court: Yes, I have sustained the objection.

Mr. Hooker: All right. That's all, if your Honor please, this particular trip.

The Court: Well, let's recess at this time for lunch. Now, ladies and gentlemen of the jury, observe the instructions, all instructions I have heretofore given to you not to discuss the case among yourselves, or allow anyone to talk to you. Come back at 1:30. The jury may be excused at this time.

Mr. Partin, just a moment. I want to give some instructions to you, sir.

(Thereupon, the jury of twelve and four alternates were excluded from the courtroom.)

The Court: Do not discuss your testimony or allow anyone to talk with you about it during the noon recess.

Mr. Silets: Your Honor, before this man is excused, I noticed something that was very, very prejudicial to these defendants just occurred when this jury stood up. This man, who is yet to be identified by the government, grabbed hold of the witness and to lead him out of the courtroom right in front of these jurors.

Now, I think we ought to have some direction that either this man—I don't know who he is, but he be removed from the courtroom or admonished to keep his hands off the witness.

[fol. 3312] Now, I think that was the most prejudicial thing that happened in this, physically in this courtroom since the case started, and I move for a mistrial.

The Court: Overrule that motion.

Mr. Alexander: Your Honor—

The Court: (Interposing) Do not interfere with the witness. The Court did not observe—

Mr. Alexander: (Interposing) Might we make inquiry and might we know if this witness is in custody of the United States Government or by the United States Government or by some state, is he under arrest?

Mr. Hooker: No, sir, he's not under any arrest. Oh.

The Court: Well, you may be excused.

(Witness excused.)

Mr. Schiffer: Your Honor, may we get the gentleman identified for the record?

The Court: Yes, would you identify yourself?

Marshal Rutherford: Yes, sir. My name is Rutherford, Robert H. I am Deputy United States Marshal.

The Court : All right.

Mr. Alexander: From where?

Mr. Reddy: What difference does it make?

Mr. Schiffer: We need to know for the record.

Marshal Rutherford: From the Eastern District of [fol. 3313] Texas, sir.

The Court: All right. You may be excused.

Mr. Branstetter: May it please the Court, the truth of the matter also is that this same marshal grabbed this same witness on three occasions on yesterday, and I arose to try to bring the matter to the attention of the Court and each time he did this right in front of the jury when the jury was leaving this room, and I state that for the record as an officer of the court. This is the third time this has occurred.

[fol. 3314] The Court: The Court has not been aware of such matters and in any event the marshals will be instructed not to in any way interfere with the witness.

Mr. Berke: I can't hear your Honor. Sorry.

The Court: I said, the Court has not observed any such matters. The marshals will, of course, be instructed to not in any way interfere with the witness during his testimony.

Mr. Branstetter: May the record also show, may it please the Court, that this is the first witness so far, I believe, where they have had some extra person standing at the door and also the regular marshal looking at the jury will stand up for a while, and then the extra person that has identified himself will go sit down for a while and they will alternate back and forth in rather obviously distracting manner to the jury to indicate that there is something unusual or wrong in this particular matter.

Mr. Reddy: May it please the Court, there has been a deputy marshal at that door in attendance of most every witness who has come in and out of the courtroom.

Mr. Branstetter: There have never been two and they have never, may it please the Court, very obviously acted in this particular fashion.

Mr. Reddy: I haven't seen them act in any particular fashion.

[fol. 3315] The Court: Very well, anything further?

Mr. Neal: Yes, your Honor, there have been much testimony with respect to a couple of statements here about things the Defendant Hoffa has said. He was disappointed because the patrolman didn't take money. And the Defendant King told what had happened.

The government is agreeable to an instruction from the Court that where the statements, looking backwards, or stating what has happened in the past, that those particular statements are admissible only against the declarant, that is, in each case, against the Declarant Hoffa and Declarant King. They are admissible against those, of course. But the government is willing to instruction as to those two statements, not something in the future, but where they look backwards.

Mr. Silets: Your Honor, on that basis I cannot see how the Court can rule but as to a mistrial and grant a severance because by the government's own admissions if it is to be admissible against only two defendants and not five or six, there is no possible precautionary instruction which would keep that kind of prejudicial testimony segregated in the minds of the jury pertaining only to the particular defendants against whom the government is offering it.

The cases are legion, your Honor, even Judge Learned Hand, United States vs. Poogly, said some very interesting things and if the Court wishes I can give you the cita-
[fol. 3316] tion, but the language was to the effect that once the bell is rung you can't unring it. And as another judge said, once you throw a skunk into the jury box you can't tell the jury not to smell it.

Now, this is the same thing that has happened here, if the statement itself is so prejudicial that the government must now get up and say it is to be admissible only against King and Hoffa, how can the Court instruct 12 good men and true to keep straight in their minds the statement as to these only two people and I move for a severance at this time.

Mr. Branstetter: The Defendant Campbell joins in, may it please the Court, and I think the Court is well aware of the phrase that anyone who thinks that matters of that type can be taken out of the mind of the jury are engaging in unmitigated fiction.

Mr. Schiffer: I join in the motion.

Mr. Alexander: The Defendant Tweel also joins in.

Mr. Neal: In this regard, your Honor, may the government point out the case of Anderson vs. United States, 270 F. 2d 124. It is a Sixth Circuit case 1959. It is right on the point with respect to the matter involved here.

Mr. Silets: 270 what?

Mr. Neal: 270 F. 2d 124, particularly at Page 126.

[fol. 3317] The Court: There has been no objection to the testimony by any defendant but the Court will consider giving those instructions.

Mr. Branstetter: May it please the Court, I understood that we had a standing objection to the testimony.

Mr. Berke: We understood, your Honor—

The Court: (Interposing) Now, gentlemen, we can't have standing objections to matters that have not heretofore been objected to. You have heretofore objected to hearsay statements allegedly made in connection with a conspiracy and agency. We are not going to play a game here with the Court.

Mr. Branstatter: There is no effort on my part when I stated, may it please the Court, that we had a standing objection. I have objected each time or someone has objected each time that where the conversations have been related out of the presence of other defendants and the Court has each time—

The Court: You will be permitted if you desire to object to the testimony at this time, you will be permitted to object to it and the Court will consider giving appropriate instruction. The motions for severance and for mistrial and other motions made on behalf of the defendants will be overruled. Let's adjourn court until 1:30.

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[fol. 3318] The Court: Before recognizing Mr. Branstetter I will just make this statement for the record. The Court has examined the Jencks statement, Jencks Act statement, in regard to the Witness Oscar M. Pitts and Patrolman James E. Paschal and has examined the full report from which that portion was cut out or extracted, the full report being Exhibit No. 92, and I find the portion

given unto the defendants is all of that report that relates to Oscar M. Pitts or to Patrolman James Paschal. The portion given unto the defendants being the bottom portion of Page 2 and the very top portion of Page 3.

Exhibit No. 92 will be sealed and made a part of the record and kept as a sealed exhibit.

Yes, Mr. Branstetter.

Mr. Branstetter: May it please the Court, immediately preceding the noon recess some question was raised with reference to a particular statement of this last witness, [fol. 3319] Partin, with reference to Larry Campbell and I would like to—I believe I have an accurate transcript of what occurred and I would like to read you question and answer and state to the Court apparently there was some misunderstanding of what actually occurred about it.

The Court: All right.

Mr. Branstetter: The question was, "Was Mr. Steinberg present at that time?

"Answer: Yes. As I believe it happened, Mr. Steinberg was there and I told Mr. Hoffa I was fixing to leave. He said he wanted to see me, to come in, and he motioned for Mr. Steinberg to go out. I pushed the door, the door part way to. I told him the trial did not look so good but he said not to worry because I have a male colored juror in my pocket. Mr. Hoffa said one of my business agents, Larry Campbell, came into Nashville before the trial and fixed it."

I objected before this had been completed on the basis that it was not in the presence of Larry Campbell, that there was no agency established at this point, that no predicate had been properly laid. I am saying what the objection is and I also moved for a mistrial and the severance and the Court forthwith overruled each.

Then the Court then permitted the witness to continue to answer, "He told me that Campbell was kin to the juror [fol. 3320] and he wouldn't take any money but he wouldn't go against his own people. He was a retired railroad

worker, fished all of the time, had no cares in the world. It looked like our best bet is a hung jury unless we can get to the foreman. He said they'd never try the case again."

Now, may it please the Court, I think that these proceedings, they sometimes get so complicated that we forget what is being tried.

Count 3 of the indictment is very short and I want to read it because I want this matter before the Court so we will know what we are trying. Count 3 provides that, "The grand jury charges that during the period from on or about October the 20th, 1962, up to and including December the 22nd, 1962, in the Middle District of Tennessee, Nashville Division, Thomas Ewing Parks, James A. Hoffa and Larry Campbell, defendants herein, James R. Hoffa and Larry Campbell aiding, abetting, counseling, commanding, inducing and procuring Thomas Ewing Parks so to act, did unlawfully, knowingly, willfully and corruptly endeavor to influence and intimidate and impede a petit juror of the United States District Court in the discharge of his duties as such juror, to-wit, Gratin Fields, who as a defendant then and there well knew was then serving as a petit juror in the trial of the United States vs. James R. Hoffa and Commercial Carriers, Inc., Criminal No. 13241 of the United States District Court for the Middle Dis-
[fol. 3321] trict of Tennessee, Nashville Division, in that Thomas Ewing Parks did meet with Carl Fields, a son of Gratin Fields, and did offer and promise to Carl Fields a sum of money, that is to say, $5,000 for himself and $5,000 to be paid to Gratin Fields for the purpose of causing Carl Fields to influence Gratin Fields to vote for the acquittal of James R. Hoffa in said case, Title 18, U. S. Code, Section 2 and 1503."

Now, the indictment is what is before the Court. The issues there set out is what is before the Court.

Here the testimony that was objected to, and I thought very strenuously at the time with reference to the alleged statements of Mr. Hoffa as to Mr. Campbell, was that it was not admissible at all as against Mr. Campbell and as

made was not admissible for any purpose whatsoever in this proceeding. The statement of this witness clearly relates to a past act or transaction that had been completed. [fol. 3322] If you assume matters asserted by the witness which makes it inadmissible for any purpose in this and I think at this point that this type of testimony and this type of questioning by government counsel is so prejudicial that there is no way that this Defendant Larry Campbell could be expected to receive a fair and impartial trial or even an understanding on the part of this jury as to what is going on.

I think that many counsel at the counsel table, both for the government and the defendants, have had considerable experience in the trial of cases and very frankly I am quite confused as to this testimony what may be considered and what may not.

I know the Court has a tremendous task, almost an impossible job, but that is not the Court's fault nor is it the fault of the defendants. It is the fault of the government in seeking to wind up and tie up all of these matters when they could have tried these cases in very short order one at a time on a proper severance.

So I respectfully move the Court for a mistrial as to Defendant Campbell first.

The Court: All right. I believe that motion should be overruled.

Mr. Branstetter: Then I would respectfully move the Court for a severance at this time as to Defendant Campbell.

[fol. 3323] The Court: I believe that motion should be overruled.

Mr. Branstetter: Then I would move the Court to strike the total answer that I just read to the Court from the testimony of this Witness Partin with reference to Larry Campbell.

The Court: I believe the Court has given appropriate instructions to the jury in that respect, having instructed

the jury that they would not consider the testimony of one defendant made out of the presence of another defendant as to such other defendant, unless it was made during the course of and in the furtherance of a conspiracy and whether this statement was or was not made in the course of or in the furtherance of a conspiracy would be a matter for the jury to pass upon.

Mr. Branstetter: I do not want to argue with the Court on the ruling on that particular point, but the objection I want the record clear on this is that the statement made by this witness related to a completed, past transaction apparently not as to the furtherance of any conspiracy then in progress or alleged in the indictment.

The Court: If the jury accepts your interpretation of the conversation, then they would not consider it as to your client because it would not be made in furtherance of the conspiracy and during the course of the conspiracy.

[fol. 3324] Mr. Branstetter: Then it would be totally inadmissible and should be stricken from the record as a legal matter.

The Court: Well, that appears to be a matter for the jury to pass upon.

Mr. Branstetter: I think the position, goes clearly on the record, I had understood the Court to say that counsel may be trying to lead the Court into error. I want to state that it is, that this is not true now, in the future, or in the past.

The Court: Yes, I think I had some misunderstanding in regard to the defendants' understanding in that respect before lunch.

Mr. Schiffer: The Defendant Parks joins in all the motions just made by Mr. Branstetter.

The Court: All right. Overrule those motions.

Mr. Silets: Your Honor, I cited to the Court this morning without giving the full description of the case just for the purpose of the language to show how impractical instructions to the jury may be, and I cited to the Court United States versus Pooglouis, 153 Fed. 2nd, 497, just for

the language at page 500 and 501. If I may just for the moment, Judge Learned Hand said there how far a jury which has heard evidence can in practical use it against one of several accused and not against others is very ques-
[fol. 3325] tionable at best. Most persons cannot think in water-tight compartments. However, it is often necessary to tell the jury to try to do so when there is a joinder of several accused, and we do not question the right of those against whom any evidence is legally incompetent to demand the admonition little as we may believe it will ever really benefit them or can possibly be a factor decisive in the results.

I think all courts, your Honor, have practically looking at this situation, must conclude that it is going to be an impossible task for this jury to separate these things and I think the Court if the Court may consider my motion again for a severance in the light of this.

The Court: All right. Overrule the motion to sever.

Mr. Haggerty: Point of information, your Honor?

The Court: Yes, sir.

Mr. Haggerty: Do I understand that your Honor made a ruling just a short time ago in reference to the so-called envelope which Mr. Neal handed up to your Honor for inspection and stated that it was a Jencks statement they had in reference to the Witness Partin?

The Court: Pitts and Paschal. Here is the copy of the Jencks statement.

Mr. Haggerty: Well, it did not refer—I understood that, but did it refer also to the envelope that was handed
[fol. 3326] up?

The Court: No, sir.

Mr. Haggerty: Very well.

Mr. Berke: Your Honor knows, those motions apply to all defendants?

The Court: Yes, sir. All right, are we ready to proceed, gentlemen? If so, have the jury return.

(Thereupon, the jury of twelve and four alternates were brought into the courtroom.)

The Court: Have the witness returned.

(Thereupon, the Witness Partin returned to the witness stand and the following proceedings were had, to-wit:)

The Court: Ladies and gentlemen of the jury, now on several occasions I have given you instructions with regard to out-of-court statements allegedly made by one defendant in the absence of another defendant and regarding circumstances under which you may consider such testimony as to any other defendants. In addition to the instructions that I have given you and to state in effect those instructions in converse, conversely I will charge you at this time that the testimony of any out-of-court statement made by one defendant in the absence of another defendant may be considered only against the defendant allegedly making such a statement. If you should find that such defendant was not an agent or a conspirator with another defendant [fol. 3327] or if you should find that such statements were not made in furtherance of such agency or that such conspiracy or during the existence of such agency or conspiracy. That is merely a converse way of stating what I have heretofore instructed you.

[fol. 3328] Mr. Hooker: Shall I proceed?

EDWARD GRADY PARTIN, a witness called at the instance of the United States of America, having previously been duly sworn, was recalled and testified further as follows:

Further direct examination.

By Mr. Hooker:

Q. Mr. Partin, when we adjourned for lunch I asked you about your trip here November 19th to November 21st. Do you recall then when you returned next after the 21st?

A. No, sir, off-hand I don't, no, sir.

Q. I hand you a document here and get you to examine it and state if that refreshes your recollection.

(The document referred to above was handed to the witness.)

A. Yes.

Mr. Hooker: We would like to offer as Exhibit 103 for identification and pass it to counsel.

(The hotel bill referred to above was marked Government's Exhibit No. 103 for identification only.)

By Mr. Hooker:

Q. Now, will you state what day it was that you got to Nashville?

A. It was November the 27th.

Q. How long did you stay on that trip?

[fol. 3329] A. Two days, evidently left on the 28th.

Q. The 28th. Now, the document that I have handed you there, the top document there, what is that?

A. That is the registration billing in the Andrew Jackson.

Q. Is that your signature?

A. Yes, it is.

Q. All right. Now, Mr. Partin, I want to ask you if you know a man by the name of Dallas Hall?

A. Yes, sir.

Q. Did you have any conversation either with or about him on this trip to Nashville?

Mr. Alexander: I object to that, may it please the Court.

Mr. Schiffer: Object.

Mr. Alexander: He is not a defendant in this case, there is no showing that Mr. Tweel was present.

Mr. Schiffer: As far as the Defendant Parks is concerned I make the same objection.

The Court: Sustain the objection at this time.

Mr. Hooker: Well, Your Honor, if I want to ask him—

Mr. Haggerty: (Interposing) Just a moment.

Mr. Alexander: Objection to what he wants to ask him. I think the jury ought to be excused if Mr. Hooker wants to [fol. 3330] state what he wants to ask this witness.

By Mr. Hooker:

Q. I will ask it this way: Did you have a conversation on this trip to Nashville with the Defendant Dorfman?

A. Yes, sir, I did.

Q. Did you make any telephone calls on that trip?

A. Yes, I did.

Q. To whom did you call?

A. I called Mr. Nicholas Tweel at the request of Mr. Dorfman.

Q. Will you just relate what your conversation was with Mr. Dorfman.

A. Mr. Dorfman asked me had I heard from Mr. Tweel and I told him that I hadn't and he asked me would I call Mr. Tweel.

So I called Mr. Tweel and he told me he would—

Mr. Schiffer: (Interposing) Objection, Your Honor, at this point on behalf of the Defendant Parks. I ask for a mistrial, ask for a severance, and I ask the count be dismissed and that the jury be instructed that in no event does anything which this witness is relating to any conversation he may have had with anybody else other than Parks be in any fashion related to the Defendant Parks in this case.

[fol. 3331] I think it's got to a point now of prejudice, Your Honor, where I think that the prosecution should be admonished not to pursue this and if they are going to pursue this line of inquiry first to state to the Court and jury that this does not apply to Mr. Parks before they introduce what they want to.

I am trying to look for some kind of trial within the spirit of American justice and due process. Evidently the prosecution doesn't want Mr. Parks to have that kind of a

trial and every time they ask a question they so word it as they want to prejudice Mr. Parks with this jury.

That is my objection.

The Court: Overrule the objection and the motion. The jury will observe the instructions heretofore given.

By Mr. Hooker:

Q. Have you stated the full conversation with Mr. Dorfman?

A. No, sir.

Q. Well, will you please do so?

A. Yes, sir. He asked would I contact Mr. Tweel and see if he had heard anything from the fellow Hall, so I called and I talked to Mr. Tweel.

Mr. Twell told me that he needed a jury list in order that he may contact Mr. Hall and read the jury off to him so he could contact the people.

[fol. 3332] Q. Where was Mr. Tweel when you talked to him?

A. In West Virginia.

Q. Did you recognize his voice?

A. Yes, I did.

Q. Now, then, Mr. Partin, after that call what happened after that?

A. I told Mr. Dorfman what he said and we went to Mr. Hoffa. I told Mr. Hoffa that Mr. Tweel needed a jury list.

Mr. Schiffer: Objected to, Your Honor, again on behalf of the Defendant Parks. I must adopt this position in view of the Court's ruling just prior to the recess at this time so far as the Defendant Parks is concerned, I must repeat for Mr. Parks' own legal protection all of the grounds stated heretofore.

I ask again for a severance and in the absence of a severance I ask the dismissal of the count in the indictment and also ask for an instruction to this jury that the prosecution at this time by the pursuing of these questions, unless

this particular witness has spoken with or has had any connection with the Defendant Parks, that in no event can any of this be applied to Mr. Parks.

I must protect the record to that extent and I am sorry I must get up this many times before the jury, Your Honor, but in view of the fact that the prosecution insists upon [fol. 3333] pursuing this way I must recognize my responsibilities and make these objections.

The Court: Overrule the objection and the motion and instruct the jury to follow the former instructions of the Court in regard to the statements of the defendants.

By Mr. Hooker:

Q. What was the conversation with Mr. Hoffa?

A. We told him that Mr. Tweel needed a jury list in order to call back Mr. Hall and tell him who was on the jury.

Mr. Hoffa asked for Buffalino, asked where Buffalino was. When he got Buffalino he told Buffalino he wanted a jury list, to get it for him. Buffalino left and went somewhere, I don't know where he went.

We was all gathered around fixing to go eat when he called, when he told him about the jury list. In a few minutes Hoffa got impatient and asked where Buffalino was again and then Mr. Buffalino came in with the jury list and came up to Mr. Hoffa and handed him the jury list.

[fol. 3334] Q. Did you go out to dinner that night?

A. Yes, sir, I did.

Q. Do you recall where you went?

A. We went to O'Brien's Beefery.

Q. Where is O'Brien's Beefery with reference to the United States Courthouse in Nashville, Mr. Partin?

A. It is up the street quite a ways, several blocks. I am not sure how many blocks, on the left-hand side, on the same side of the street that the courthouse is.

Q. Who went with you to O'Brien's Beefery?

A. Well, I remember Mr. Buffalino, Mr. Dorfman, Mr. Hoffa, Mr. Kossman. I believe Mr. O'Brien was there, and myself, and others. Several cab-loads of people went there.

Q. Now, how did you travel after dinner, how did you travel back?

A. Well, we walked back from there.

Q. Did you stop anywhere?

A. Yes, sir. We had made a phone call from O'Brien's Beefery to a Mr. Tweel while we were eating.

Mr. Haggerty: I object to it unless he distinguishes who made this phone call. He says "we."

The Court: Sustained.

By Mr. Hooker:

Q. Who made the phone call?

[fol. 3335] A. I gave—

Mr. Haggerty: (Interposing) Further, your Honor, I object to this form of questioning which assumes facts not in evidence constantly used by Mr. Hooker. It is suggestive of the answer and when an objection is made in the presence of that witness, he then has an opportunity to refresh his recollection or get the idea of what to respond to and that is repeated throughout and that is the vice of asking questions in this form. And there is no way that the defendant has a defense against it if the Court doesn't hold the examiner to the strict rules of evidence.

The Court: What was improper about the question as to whether they stopped some place? Is that your objection?

Mr. Haggerty: Well, no, but repeatedly, repeatedly it is suggested about the phone call. And what I'm particularly objecting to is "we made a phone call."

The Court: I sustained your objection on that.

The Witness: Yes, sir.

By Mr. Hooker:

Q. Who made the phone call at O'Brien's Beefery?

A. Well, could I describe? I mean, I have to describe.

Q. Yes, you can describe the location of the phone and just how it was handled.

A. Well, after we had sat down, Mr. Dorfman and I [fol. 3336] walked over to the counter.

Mr. Haggerty: Well, I object to it as not being responsive to the question, your Honor.

The Court: Overrule your objection.

The Witness: Mr. Dorfman asked the man did they have a phone that we could use. He said the only one I have is one and it was setting behind the counter. Actually it was a phone that belonged to the people. It wasn't a pay phone. It was his private phone. He said, "You are welcome to use it." Mr. Dorfman asked me for Tweel's number and I handed it to him, I handed him the notebook with Tweel's number in it. He made a call to Mr. Tweel and couldn't get him. Then we went and sat down. Told the manager before we sat down that if the call came in to call us. But the call did not come back before we left there. Then we went on from there down towards the train station.

By Mr. Hooker:

Q. Before you leave that, did you hear Mr. Dorfman's conversations, his part of the conversation with the operator?

A. Yes, sir, I was right beside him.

Q. Was this a pay phone?

A. No, sir.

Q. How was the call charged?

A. Credit card.

Q. Credit card, all right, now, then, after you left [fol. 3337] O'Brien's Beefery where did you go from there?

A. We proceeded down the side of where the railroad station is. Same side of the street only quite a ways down.

When we got to the railroad station, Dorfman said, "Probably is a pay phone in there." So as we all went inside to the railroad station and the pay phone was to the right just as you went inside the railroad station, only it was in the open, he and I walked over there and I again gave him the number to call. He placed his call that time and did get Mr. Tweel, and told him he would call him back.

Mr. Silets: Objection, your Honor, he has no way of knowing who—

The Court: (Interposing) Sustained.

The Witness: Well, he received—

By Mr. Hooker:

Q. (Interposing) Did you hear Mr. Dorfman's end of the conversation?

A. Yes, sir. He told him that he would call him back in a few minutes that the phone booth was open there and he couldn't talk.

Q. Did Mr. Dorfman call the name of the person to whom he was talking?

A. Yes, sir, when we went to go out he told Mr. Hoffa when we went to go out that he had contacted the party.

Q. He had what?

[fol. 3338] A. He had contacted Mr. Tweel.

Q. Yes. Now, then what were the others doing while you all were over there using the telephone if you saw them?

A. Well, they were arguing about the height from the floor to the ceiling of the building. Betting on what the height was with some railroad employee, I don't know who he was. And Mr. Hoffa told the man he bet a Coke that it was so high. He said he was sending an engineer down the next day to measure it and then we left.

Q. That was at the Union Station in Nashville?

A. Yes, sir.

Q. Then, where did you go after you left the Union Station?

A. We proceeded up to the corner of the courthouse and came across from the courthouse to the drug store. Mr. Dorfman and I went on across the other side of the street to the phone booth in front of a school house there and the others went on down the street.

Q. Was that a pay telephone booth?

A. Yes, sir, it was two, maybe more than one telephone booth there.

Q. What did you do there?

A. He went into the phone booth and with the door open and I gave him the number again on the book to call, he had a list, the jury list, he had taken it out and had it [fol. 3339] folded out in front of him, too.

Q. I neglected to ask you about how the call at the Union Station was charged.

A. It was a credit card also. I remember him reading it off.

Q. And then when you got to the phone booth there in the school house yard there, was that call charged?

A. With a credit card also.

Q. Credit card, did you hear Mr. Dorfman's end of the conversation?

A. Yes, I did.

Q. And you gave him the number?

A. Yes, sir.

Q. Whose number did you give him?

A. Mr. Tweel's.

Q. Is that the number he called?

A. Yes, sir.

Q. What did Mr. Dorfman say at his end of the conversation?

A. Well, he proceeded to read off—sheets with individual juror's name on them. He proceeded to read off to the person he was talking to, Mr. Tweel, the names.

Mr. Silets: Objection, your Honor, he doesn't know who he was talking to.

The Court: Sustained. The jury will disregard that. [fol. 3340] Proceed.

By Mr. Hooker:

Q. Read to whoever he was talking to, what did he read him?

A. Sir?

Q. What did he read to the person to whom he was talking?

A. He read the jury list off, the occupations, where they lived and all was on the jury list, each individual photostat sheet.

Q. Their names?

A. Names, addresses and occupations. Any information that would be helpful to him on describing the jury.

Q. Now, where did you go after that, Mr. Partin?

A. We left the phone booth and proceeded down the street to the Andrew Jackson Hotel.

Q. Did you have any further conversation with Mr. Dorfman as you went to the hotel?

A. Yes, sir. He told me the fellow that Tweel was contacting was a fellow—

Mr. Alexander: I object to what Mr. Dorfman told him insofar as it effects Mr. Tweel.

The Court: Overrule the objection. The jury, of course, will observe the instructions the Court has heretofore given.

[fol. 3341] The Witness: He said the party that was giving the jury list to, the jury list to, Mr. Tweel.

Mr. Branstetter: May it please the Court, before the noon recess there was some questions as to whether or not the defendants had a standing objection to any question asked a witness or any response of a witness that did not relate to or name a particular defendant and I understand now that there may be some misunderstanding. I understood that each defendant, the Defendant Campbell, for example, had a standing objection to this type of question.

The Court: I believe, Mr. Branstetter, rather than having a standing objection I think the proper procedure would be to allow objections to be made when you think

they should be appropriately made but each defendant may adopt the motion or the motion will be made upon behalf of all defendants without each defendant having to adopt the motion.

[fol. 3342] Mr. Branstetter: May it please the Court, that may require an objection every three seconds.

The Court: Well, all right.

By Mr. Hooker:

Q. Go ahead and state what conversation you had with Mr. Dorfman on the way back to the hotel.

Mr. Branstetter: I object to it insofar as it relates to the Defendant Campbell, may it please the Court.

Mr. Schiffer: I object as far as it relates to the Defendant Parks, your Honor, and in addition I, on behalf of the Defendant Parks, I move for a severance, I move that the indictment be dismissed as to the Defendant Parks and that the prosecution be advised that they cannot pursue any line of questioning with this witness which does not apply to Mr. Parks and should they do so to state that for the record and where it does not apply to Mr. Parks to state for the record that it specifically does not apply to Mr. Parks, that failing that kind of instruction or direction from the Court, I feel that my defendant is being deprived of due process and cannot hope to have submitted to the jury only the evidence which should become departmentalized, if any there should be, only against Parks.

I say that sincerely that I myself, as a lawyer, cannot any longer follow this evidence as to what the Court has instructed the jury shall only be applied to Mr. Parks, and [fol. 3343] I have been reading the transcript and I can't make out any of the instructions of the Court, both as a lawyer and as a layman, as to what there is in this case, if anything, which can be attributed to Mr. Parks in this case, your Honor.

Mr. Haggerty: May it—

The Court: (Interposing) Overrule the objection.

Mr. Haggerty: I object to the conversation between Dorfman and the witness on the stand on behalf of the Defendant Hoffa and not in the presence, not in his hearing and it's hearsay.

The Court: Overrule the objection on behalf of all defendants.

Mr. Brown: As a point of information, did I understand the Court to just rule as long as an objection is made by one counsel it would apply to all defendants?

The Court: That is correct.

Mr. Brown: For my own protection.

By Mr. Hooker:

Q. Now, Mr. Partin, will you state to the ladies and gentlemen of the jury what conversation you had with the Defendant Dorfman on the way back to the hotel after this telephone call in the phone booth?

A. Yes, sir. He said that Mr. Dallas Hall, who Mr. Tweel was supposed to contact, was an exclusive nightclub owner in the area there and he had a lot of contacts and he also [fol. 3344] said that Mr. Tweel was trying to arrange a loan from him to build some warehouses or warehouse, I am not sure whether he said warehouses or warehouse.

Q. Now, Mr. Partin, you made some reference this morning to having made a trip to Dallas, Texas?

A. Yes, sir.

Q. Do you have any record that would refresh your recollection about that date?

A. No, sir. I know I made a trip, I don't have the records, but it should show when I checked back into the hotel because I only stayed one day. I believe when I came back—

Mr. Schiffer: (Interposing) Objected to, your Honor. That answer is not responsive to the question.

The Court: Overruled.

By Mr. Hooker:

Q. Can you state about when it was that you were in Dallas?

A. It was—

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[fol. 3346] By Mr. Hooker:

Q. Do you recall about when it was that you had this [fol. 3347] telephone conversation in Dallas?

A. Sir, to be exact to the minute and date, I say within the next day or two.

Q. Well, to whom did you talk?

A. Mr. Tweel.

Q. And where was Mr. Tweel?

A. Well, he was given—I was given a number to call him from my office when I called him and that was in West Virginia also.

He told me at the time that he was doing all he could do on the thing, that it was short notice to give Mr. Hall but that he would be back in Dallas in a few—I mean, I am sorry, be back in Nashville in a few days as soon as he heard something.

Q. Now, Mr. Partin, did you ever at any time during this course of these meetings and conversations report to anybody about the conversations?

A. Yes, I told Mr. Hoffa what he had said.

Q. Well, I mean did you report to anybody connected with the government?

Mr. Haggerty: Just a moment.

A. I—yes.

Mr. Haggerty: I object unless we fix when he had this conversation with Mr. Hoffa, when he allegedly reported this conversation.

[fol. 3348] The Court: Sustain the objection.

Mr. Haggerty: And ask it be stricken.

The Court: Strike that remark.

Mr. Alexander: If it please the Court, I didn't get the date of this Dallas call.

Mr. Hooker: He said he couldn't fix the date, it was within a day or two of the period which we were discussing here, which was the period from the 28th and 29th of November.

Mr. Alexander: Don't you have his hotel bill out there?

Mr. Hooker: No, I do not, Dave.

Mr. Silets: Your Honor, I am slightly confused because we have a proper name Dallas and we have a city in the State of Texas called Dallas, and I assume, if I am not mistaken, this was a call made from the city of Dallas in the State of Texas?

Mr. Hooker: That's right, about Dallas Hall.

Mr. Silets: Objection, your Honor, ask that that be stricken. The jury directed to disregard it.

The Court: You will not regard that statement. Sustain the objection.

By Mr. Hooker:

Q. You say you reported that conversation to Mr. Hoffa?
[fol. 3349] A. Yes, sir.

Q. Do you recall when that was?

A. That is when I got back into Nashville.

Q. All right. Just tell the jury what was said.

Mr. Schiffer: At this time, your Honor, I must again rise to respectfully object to the question and the calculation of the prosecution that the answer is going to receive on the ground that the response to this question would hopelessly prejudice the Defendant Parks and I have, therefore, to protect the record and to protect his constitutional rights to a fair trial and ask your Honor again most respectfully to declare a mistrial or, in the alternative, to sever Mr. Parks from the balance of the defendants in this case or to dismiss the indictment in its entirety and to insist that the prosecution in the advance of and in propound-

ing of questions be clear on the record as to what or what does not apply to Mr. Parks in this case.

The Court: Overrule all motions made by Mr. Schiffer.

By Mr. Hooker:

Q. First, let me ask you, Mr. Partin, if you can recall the date of your next trip to Nashville after this Dallas conversation?

A. Not without looking, sir, because there is so many dates I couldn't.

[fol. 3350] Q. I will pass you a document here and ask you to look at this and see if that refreshes your recollection.

(Document referred to above was handed to the witness.)

A. Yes.

Mr. Hooker: We offer that as Government's Exhibit No. 104, I believe, isn't it, Mr. Dale?

Mr. Dale: Yes.

Mr. Hooker: For identification and ask it be passed to counsel.

(The hotel bill referred to above was marked Government's Exhibit No. 104 for identification.)

[fol. 3351] By Mr. Hooker:

Q. Look at the document there and state if that has your signature on it.

A. Yes, sir.

Q. Where did you stay on that trip?

A. Andrew Jackson Hotel.

Q. Did you stay here a short time or a long time on that occasion, Mr. Partin?

A. I stayed here a short time.

Q. Do you remember about what time you got here and what time you left?

A. I got here I remember it was early in the morning sometime. I got delayed on a plane. I left the same date, I'm sure.

Q. Left the same date, now, did you have a conversation with Mr. Hoffa on that trip?

A. Yes, sir.

Mr. Schiffer: Just a moment, please, for elucidation, Your Honor, something on the bill there which indicates the 29th of November and the 30th of November. I wonder if we might have that clarified for the record?

The Court: All right. Yes. It is not helpful to refer to a date and then to not give the date.

By Mr. Hooker:

Q. What is the date, Mr. Tweel, Mr. Partin, that you [fol. 3352] checked in?

A. The 30th is when I checked in.

Q. And when did you leave?

A. The same date. I checked in early in the morning. Like I say I was delayed on a plane and couldn't get in when I was supposed to.

Q. And did you see Mr. Hoffa?

A. Yes.

Q. Where did you see him?

A. I saw him up in his room.

Q. Do you remember what time of day it was?

A. It was before court.

Q. Did you have a conversation with him?

A. Yes, sir.

Q. Was anyone else present?

A. Not that I can remember distinctly. It was several in there I'm sure in and out all the time.

Q. Well, I mean, anybody in the conversation with you and him?

A. Mr. King had came in, whether he was close enough or involved in the conversation I don't remember.

Q. Well, what was said?

A. I don't—

Mr. Schiffer: Objection, Your Honor.

Mr. Silets: Objection, Your Honor. We ask the jury to [fol. 3353] disregard this conversation.

The Court: Overrule the objection.

The Witness: I don't remember exactly what the conversation was that day. I can tell you what I was told to do though.

By Mr. Hooker:

Q. What did he tell you to do?

Mr. Schiffer: I object.

Mr. Haggerty: I object to that, may it please the Court.

The Court: Sustained.

By Mr. Hooker:

Q. Wait a minute. I want to know anything that you recall that Mr. Hoffa—

Mr. Haggerty: Wait a minute, Your Honor, I object to that statement made to the witness. Here is a course of instruction to a witness what answer to give. I certainly object to those tactics, Your Honor. I say there is a vice in them. Here he has made a statement. I ask that it be stricken and that Mr. Hooker be instructed not to make such statements because it is most unfair and unjust because the defense can't meet such a charge as that or such a statement as that. All they can do is object, but the objection even if granted by Your Honor and sustained doesn't do much good because the witness has already been [fol. 3354] informed of the answer required.

Mr. Hooker: I'm not attempting to lead him. I want to ask him this question. You said you were told what to do, just answer yes or no.

The Court: Sustain the objection to that statement. There is no relation of that statement to any party to this lawsuit. Sustain the objection.

Mr. Hooker: Well, my next question was to ask him—
Mr. Haggerty: I object to Mr. Hooker stating what he wants his next question to be.
The Court: Sustained.

By Mr. Hooker:

Q. Who told you what to do?

Mr. Schiffer: Objection, Your Honor.
The Court: It is a leading question.

By Mr. Hooker:

Q. Well, do you recall any of the conversation with Mr. Hoffa?

Mr. Berke: He has already said—
Mr. Brown: I object.
The Court: Overrule the objection.
Mr. Brown: He stated he didn't remember any conversation at all, if the Court please, and Mr. Hooker now is attempting to inject the name Hoffa again to his recollection that the Court sustained the objection already.
[fol. 3355] The Court: The Court sustained an objection to the statement made by an unidentified source. Overrule the objection to the last question as asked.

By Mr. Hooker:

Q. Go ahead, state what was said.
A. I am almost positive that this—

Mr. Schiffer: Objection to that.
Mr. Haggerty: Objection.
Mr. Alexander: Objection.
The Court: Sustained.
The Witness: Could I qualify my answer?
Mr. Berke: If Your Honor please, this witness is awful anxious here to say can I do this and can I do that, I think he should be warned that when the Court—
The Court: Answer if you can and if you can't say so.

The Witness: I can't answer it clearly without explaining, no, sir.

By Mr. Hooker:

Q. All right. You stated while ago and I interrupted you with another question.

Mr. Silets: Your Honor, may it please the Court, I think that Mr. Hooker knows better than to re-state the testimony. If he has a question, let him direct the question but to re-hash the testimony, the jury can remember what was [fol. 3356] said.

Mr. Hooker: Not re-hashing testimony.

By Mr. Hooker:

Q. Do you recall this call?

Mr. Silets: Your Honor, Mr. Hooker, sir, with all deference I made an objection to the Court.

The Court: Sustain the objection.

Mr. Hooker: All right.

By Mr. Hooker:

Q. Now, Mr. Partin, where—, you said you left Nashville that same day, where did you go?

A. To Baton Rouge.

Q. Baton Rouge?

A. Yes, sir.

Q. Did you have any telephone conversation when you got to Baton Rouge?

A. Yes, sir. I had a conversation with Mr. Tweel.

Q. Where was Mr. Tweel?

A. At that time I believe he was still in West Virginia.

Q. Did you call him or did he call you?

A. He had called and left word for me to call him back.

Q. And you answered the call?

Mr. Branstetter: Now, may it please the Court, this [fol. 3357] witness is going through exactly the same thing

time and again, this method of leading the witness is such that there is no method whereby defendants can meet it as has been suggested. He said he had a phone call there before he got to Baton Rouge. I don't know how he knows this. It is clearly incompetent testimony. Mr. Hooker knows it is incompetent, and when this line of questioning is pursued after the Court has instructed counsel time and again on how to proceed, and the counsel then continues to lead the witness, there is a line of cases and I can furnish them to the Court that said that there should be a mistrial granted because there is no—What happened, the witness has been told to get back on the script and answer as I suggest to you, Mr. Witness, from the questions, then there is no way that we can then go back and show or demonstrate that counsel has been leading him contrary to the rules of the Court.

The Court: Overrule the objection.

Mr. Alexander: Could we establish the date of this, may it please Your Honor? He said when he got back to Baton Rouge.

Mr. Hooker: Yes.

Mr. Branstetter: I object to all of it insofar as Defendant Campbell is concerned.

By Mr. Hooker:

Q. Do you remember what the—

[fol. 3358] The Court: Overruled.

By Mr. Hooker:

Q. Do you remember what the date was?

A. It was on a Friday. The weekend. Close to the weekend. I would have to examine the papers to be sure because I can't positively say because I thought—

Mr. Alexander: (Interposing) May it please the Court, there are 52 weekends and I don't know when this is.

Mr. Haggerty: There is a calendar up here in the courtroom to assist the witness.

The Witness: Yes, sir.

By Mr. Hooker:

Q. When with reference to that last trip to Nashville?

A. It would be on Friday the 30th.

Q. Friday the 30th. Now, how did you learn about the telephone call?

A. When I went into my office I had a call from Mr. Tweel.

Q. And did you answer the call?

A. Yes, sir, I did.

Q. Did you talk to Mr. Tweel?

A. Yes, sir.

Q. Did you recognize his voice?

A. Yes, I did.

[fol. 3359] Q. What was stated in the conversation?

Mr. Schiffer: Objection.

Mr. Silets: Objection, your Honor.

The Court: Overrule the objection.

Mr. Silets: May the Court instruct the jury not to consider this evidence against the Defendant Dorfman?

The Witness: Yes.

The Court: Yes, the jury will observe the same instructions that the Court has heretofore given the jury with regard to out-of-court statements by one defendant and when if at all it might be considered as to any other defendant.

The Witness: He said that he wasn't going back—

Mr. Alexander: (Interposing) Just a moment, your Honor. I think one other objection, as to the time he made that phone call. There is evidence in the record already from those exhibits received for identification that the time he left as to the time he left Nashville.

The Court: Overrule the objection. Those are matters you may cross examine on.

By Mr. Hooker:

Q. Go ahead, Mr. Partin.

A. He said that he wasn't coming back into Nashville right at the time because he was too well known. He said that he had sent the Fraternal Order of Police president [fol. 3360] and some other policeman—

Mr. Alexander: (Interposing) I object to that. That has nothing to do with this matter.

Mr. Hooker: Well, we submit it does, if your Honor please. Part of the conversation.

The Court: Overrule the objection.

Mr. Alexander: May it please the Court, we are getting into a matter that Mr. Neal objected to vigorously the other day. I think it has no place in this.

Mr. Schiffer: On this issue, your Honor, I believe it is a matter that should be discussed without the presence of the jury because we are now going into issues that were never disclosed on the bill of particulars or face of the indictment.

The Court: Well, we'll reserve ruling upon that and move on to something else.

By Mr. Hooker:

Q. Well, without reference to those people, what else was said in the conversation, Mr. Partin?

Mr. Haggerty: Well, I object to that, may it please the Court.

The Court: Overrule the objection.

The Witness: He said soon as the man made the contact, Mr. Hall made the contact, that he was coming back into Nashville and he would let me know. So I could come on [fol. 3361] back in also.

By Mr. Hooker:

Q. Now, do you recall, Mr. Partin, when it was that you made the next trip to Nashville without your recollection being refreshed?

A. No, sir, I couldn't accurately answer, I couldn't accurately do it, no, sir.

Q. I hand you here a document and ask you to examine that and see if it refreshes your recollection?

A. Yes, sir.

Mr. Hooker: We offer that as Government Exhibit No. 105 for identification and ask that it be marked and passed to counsel.

(Hotel bill referred to above was marked Government's Exhibit No. 105, Witness Partin, for identification only.)

[fol. 3362] By Mr. Hooker:

Q. Refer to that document, Government's Exhibit No. 105, and state when you were next in Nashville.

A. Yes, sir, December the 3rd.

Q. How long did you stay here, Mr. Partin?

A. December the 7th.

Q. Where did you stay?

A. The Andrew Jackson Hotel.

Q. Is that your bill you have in your hand?

A. Yes.

Q. The document on top there, what is that?

A. That's the registration receipt, sir.

Q. Does your signature appear on it?

A. Yes, it does.

Q. Now, when you got in on that occasion, Mr. Partin, at any time on that trip did you have a conversation with Mr. King?

Mr. Brown: Your Honor, I object to any time on that trip. If he will tell us what date, there's seven days involved here, if the Court please, give the time and place.

The Court: Overrule the objection.

A. Yes, I discussed with Mr. King how the jury was going. He told me that Hoffa was wanting to get insurance.

Mr. Silets: I am going to object on the basis that there is no foundation laid as to who was present, where it

[fol. 3363] occurred, it is impossible for any of the other defendants to ascertain whether it is admissible against them until such time and I object and ask the Court to instruct the jury to disregard it.

The Court: Sustain the objection on the ground stated.

By Mr. Hooker:

Q. Was there anyone else present at this conversation?

A. Not at first that I remember, no, sir.

Q. Where did it take place?

A. The one I was at the courthouse in the lobby of the courthouse.

Q. Is that the one you told about?

A. Yes.

Q. Then did you have another conversation with him?

A. Yes, sir.

Q. Where did that take place?

A. At the hotel, I think it was in the lobby at the time.

Mr. Silets: Objection, your Honor, the man is speculating.

The Court: Overrule the objection.

Q. What occurred in that conversation?

Mr. Silets: Your Honor, again we get to the problem of not establishing who is present.

[fol. 3364] Mr. Hooker: He said no one was present, he and Mr. King.

Mr. Silets: Then my objection stands then, your Honor, as to the inadmissibility of his testimony as to the Defendant Dorfman and ask the jury to be instructed to disregard.

The Court: The jury is given the same instruction in that regard as to heretofore given. State your question.

By Mr. Hooker:

Q. What was stated or said in that conversation, the second conversation between you and Mr. King?

A. He complained about Mr. Hoffa being on him about not getting everything lined up like he was supposed to, that was some of his complaints, and in the same conversation we discussed an 80-year-old mother of a juror he had discussed previously with me, a 60-year-old juror that was on the jury. He had previously told me that but I couldn't fit it into the times.

Mr. Brown: Your Honor, I can't understand what the witness is talking about, I mean I can't understand his answer. Would the reporter read back what he said?

(Thereupon, the record was read by the court reporter.)

Mr. Silets: Your Honor, I move it be stricken as not responsive, relating to conversations which have not been [fol. 3365] testified to before, it's also objectionable on the ground that he is stating a conclusion as to what the conversation is instead of relating what he said, what the witness said, what the other party said in the conversation and so on.

The Court: Sustain that objection and ask the jury to disregard the answer.

By Mr. Hooker:

Q. Now, Mr. Partin, when did you leave Nashville on that second trip?

Mr. Haggerty: Well, I think that is assuming something not in the record. He didn't say he went on another trip. The question is leading, based on a false assumption.

By Mr. Hooker:

Q. Are you still there, Mr. Partin?
A. No, sir, I left.

The Court: Overrule the objection.

Q. When did you leave?
A. December the 7th.

Q. And do you recall when you returned again?

A. No, sir, I don't offhand.

Q. I pass you a document and ask you to examine it and see if that refreshes your recollection.

(The hotel bill referred to above was handed to the witness.)

[fol. 3366] A. Yes, sir.

Mr. Hooker: I will ask that be marked for identification as Government Exhibit No. 106 and passed to counsel.

(The hotel bill referred to above was marked Government Exhibit No. 106 for identification.)

[fol. 3367] The Court: May we proceed?

By Mr. Hooker:

Q. Look at that Government Exhibit No. 106 and state when you arrived in Nashville on that occasion and when you left.

A. December 10th and left on December—they have the 13th and 14th, one stamped over the other one and I can't identify if it was the 13th or 14th.

Mr. Silets: Your Honor, this is obviously, it is obvious that this witness has never throughout all of this testimony testified from his own recollection. He must have as is indicated to you now been testifying what these records reflect and not that they refresh his recollection. He is not testifying from his own memory. But what the records testify. And they are not in evidence and I move that all—

The Court: (Interposing) Sustain that objection.

Mr. Silets: Now, sir,—

The Court: (Interposing) Sustain the objection.

Mr. Silets: May I continue, your Honor?

The Court: Yes, sir.

Mr. Silets: I move then that the testimony relating to all the dates from which he testified from specific docu-

ments be stricken because he has obviously not testified from his own recollection.

The Court: Overrule that objection.

[fol. 3368] By Mr. Hooker:

Q. What is your best recollection as to when you left on that trip, left Nashville on that trip, Mr. Partin?

A. I believe it was on the 14th, but you can't tell by looking.

Mr. Silets: Objection and we ask that the answer be stricken and the jury be instructed to disregard it.

The Court: Yes, sir, disregard what the statement reflects. The witness can state what his best recollection is.

By Mr. Hooker:

Q. Mr. Partin, going back to your previous trip, the trip prior to that to Nashville that I asked you about before this—

A. (Interposing) Yes, sir.

Q. I overlooked asking you if you had a telephone conversation with Mr. Tweel in New York?

A. Yes, I did.

Q. Did you recognize the voice?

A. Yes, I did.

Q. Did you call him or did he call you?

A. He called and left word for me to call him.

Mr. Alexander: I object to that.

The Court: Sustained.

Mr. Silets: And may the Court please instruct Mr. Hooker he knows better and he has been admonished on a [fol. 3369] dozen occasions that to ask this question with a leading point in mind, even though it is sustained, it plants the seed in the witness' mind what Mr. Hooker is after.

The Court: Overrule that objection.

By Mr. Hooker:

Q. Go ahead and state what the conversation was.

Mr. Haggerty: I object. No date has been fixed for this conversation.

The Court: Sustained, there is no question before the witness at this time.

By Mr. Hooker:

Q. I asked you if you had a conversation with Mr. Tweel?

A. Yes, I did.

Q. Do you remember the date of that?

A. No, sir, I don't remember the date, but I remember the conversation well.

Q. Do you remember about when it was?

Mr. Alexander: I object to it.

The Witness: Yes, sir.

Mr. Alexander: I object if he does not remember the date and can't fix the time and place.

The Court: Overrule the objection.

The Witness: A few days prior to this I couldn't place it just offhand, but I'm sure my hotel records will show it [fol. 3370] when I was there.

By Mr. Hooker:

Q. Did he call you or you call him?

A. He called.

Mr. Berke: Two days prior to this doesn't mean anything.

The Court: Overrule the objection.

Mr. Berke: Two days prior to this? Now he was pointing there in front of the bench there and I don't know what it is, your Honor, and we certainly would like to know what he has reference to.

The Court: Gentlemen, many of these matters you are objecting to are matters you will have an opportunity to cross examine upon. You are talking about two days before this. What are you referring to, Mr. Partin?

The Witness: Well, your Honor, it is a distinct conversation I remember but I can't fit it into the exact date. I know it was just a few days prior to this one way or the other, give or take.

The Court: Prior to what?

The Witness: December 10th.

The Court: All right.

By Mr. Hooker:

Q. All right, will you state what that conversation was? [fol. 3371] A. Yes, sir. I called him at the Hampshire House and that was in New York City. I remember the first part, Circle 6-1800 or something, something I believe similar to that. And when I got Mr. Tweel he told me—

Mr. Schiffer: (Interposing) Object to any portion of this speech that he may have had with Mr. Tweel at this time, your Honor, on behalf of the Defendant Parks and I believe so highly prejudicial to him that certainly it entitles him to a severance from the other defendants, certainly dismissal of this count in the indictment as it may affect my defendant Mr. Parks, that the government again be instructed that insofar as the questioning of this particular witness that they be limited to what may or may not affect Mr. Parks and so state to the defense counsel that in a motion to understand what of the testimony of this witness the prosecution means to use against my client Mr. Parks. Without such a direction, we are hopelessly floundering in a sea of conjecture, your Honor.

I know that if I'm confused I feel the jury is confused. And I must ask your Honor as the only authority in this forum to direct the prosecution to please refrain from introducing evidence unless they specify against whom it is being used and I say that the fault here lies by the fact

that the prosecution has not proved the corpus delicti before going into connect anybody with any single event. [fol. 3372] Since the corpus delicti has not been put in evidence and there has been no proof offered as to the corpus delicti upon which my client could be connected with anything illegal as charged in this indictment, I respectfully move as I have, your Honor, for a severance on the one hand, and as one single motion, and a dismissal of the count as they apply to Mr. Parks at this time and for the proper instructions to the prosecution if they intend to pursue this indictment at this time against Mr. Parks, that they specify first what applies to Mr. Parks and short of that an instruction, your Honor, there is no sense in Mr. Parks even putting in a defense to this case because he doesn't even know and his attorney doesn't know what issue—

[fol. 3373] The Court: Mr. Schiffer, will you please state your objection?

Mr. Schiffer: Yes.

The Court: Overrule the motion.

Mr. Schiffer: I specifically except, Your Honor, to that portion of Your Honor's ruling which does not force the prosecution to first prove the corpus delicti, that's short of proof of the corpus delicti this case flounders in a state of unworthiness.

Mr. Neal: A person kind of gets impatient listening to Mr. Schiffer after awhile. What did he think of the testimony of Carl Fields, Jack Walker, Mrs. Mattie Mix?

Mr. Alexander: We object to him—

The Court: (Interposing) Yes.

Mr. Silets: Your Honor, I move—

The Court: (Interposing) Gentlemen, I want to hear you, you have a right to state your motions. We are not here for the purpose of conducting any filibusters. If you have a motion state your motion and then let the Court rule upon it. The motion of Mr. Schiffer is overruled. The jury will follow—

Mr. Schiffer: (Interposing) Your Honor?

The Court: Just a moment, Mr. Schiffer.

Mr. Schiffer: Yes, sir.

The Court: The jury will follow the instructions the [fol. 3374] Court has heretofore given with regard to statements of one defendant and with regard to their consideration as to any other defendant.

Mr. Schiffer: I trust Your Honor will instruct the jury that the Court's use of the term "filibuster" is not meant to apply to any effort I have made to filibuster.

The Court: No, I am just asking that all counsel be to the point, get to the point when they state the motion.

Mr. Schiffer: Well, unfortunately I have to state the full objection.

Mr. Silets: Your Honor, I would like to move for the withdrawal of a juror and a declaration of a mistrial based on the prejudicial comments of Mr. Neal relating to three of the counts of the indictment, the testimony of three parties which do not relate to the Defendant Dorfman at all and upon which no proof has been offered or can be offered connecting Mr. Dorfman to those counts.

I think the purport of Mr. Neal's comment was to prejudice the jury and I think Your Honor must acknowledge that by withdrawing a juror and declaring a mistrial.

The Court: Overrule the objection.

Mr. Haggerty: May it please the Court—

The Court: You will disregard the argument of counsel, ladies and gentlemen, and try the case on the evidence as you hear it stated from the witness stand by the wit- [fol. 3375] nesses.

Mr. Haggerty: On behalf of the Defendant Hoffa, predicated upon the remarks made by Mr. Neal, I move the Court for a mistrial.

The Court: Overrule the motion.

Mr. Schiffer: I join in that motion on behalf of the Defendant Parks.

The Court: Overruled.

By Mr. Hooker:

Q. Now, Mr. Partin, you state your conversation with Mr. Tweel.

A. Yes. He said, "Things are hot down there." He said, "They know all about the phone calls, they know all about the conversation in the train station from the pay phones and O'Brien's Beefery." He said, "They have inside information on every move we have made." He said, "We can't afford to fool with it."

Mr. Silets: Your Honor, I would like to again now enter an objection because this is patently the relation by this witness of an event which had already occurred.

The Court: You will not consider that statement as to any defendant other than the Defendant whose alleged conversation it purports to relate.

Mr. Silets: Your Honor, specifically will the Court direct the jury that it does not relate to Mr. Dorfman?

[fol. 3376] The Court: It does not relate, it would not be considered by the jury as to any party defendant other than the party who it is purported to have been conducted with, namely Mr. Tweel.

By Mr. Hooker:

Q. Anything else?

A. He said the fraternal order of police—

Mr. Alexander: (Interposing) I object to that, Your Honor has ruled on that matter.

The Court: Sustain the objection.

A. He said he had straight from the inside of the office of the law, whoever they were—

Mr. Berke: (Interposing) Your Honor sustained the objection, the witness continues to try to blurt out evidence and we think we have asked the Court before to please—

The Court: (Interposing) When the Court sustains an objection, Mr. Partin, do not further respond until a further question is directed.

Mr. Hooker: I submit he was just completing his answer.
Mr. Berke: It was sustained.

By Mr. Hooker:

Q. If it is a matter about which the objection is sustained don't answer, but if there's anything else in that [fol. 3377] conversation stated.

A. Yes, sir, he told me to pass word to them that he was going to have to get out of it, it was too hot for him, that this Dallas Hall, he said he didn't want any part of it, it was just too dangerous to touch and the other part I can't say because—

Q. (Interposing) Did you have any conversation with anybody else about that?

A. Yes, sir, I reported to Mr. Hoffa about it.

Mr. Haggerty: Just a moment, may it please the Court. I object and ask that it be stricken until the time and the place of the report of the conversation about Mr. Hoffa is ascertained.

Mr. Hooker: I am going to ask that in the next question.
The Court: All right.

By Mr. Hooker:

Q. Where did you talk to Mr. Hoffa?

A. In his room, 740.

[fol. 3378] Q. Was anyone else present?

Mr. Haggerty: Well, just a minute. I still object to it until a time is fixed, your Honor.

The Court: Overruled.

Mr. Haggerty: How can the defense meet these many charges here unless they at least have the date, how can they rebut such testimony? I say it's manifestly unjust and unfair.

The Court: Well, allow them to proceed but ask that question.

Mr. Branstetter: May it please the Court, I would like to take up a matter at this time with the Court in the absence of the jury. I think it is about the time of the Court's usual recess period, anyway. I think it must be done at this time in order to properly protect my client.

The Court: All right. Any reason why we should not take a recess at this time as far as the prosecution is concerned?

Mr. Hooker: No, sir.

The Court: All right. Ladies and gentlemen, we will take a 15-minute recess. The jury may be excused at this time.

The Marshal: Court is still in session, everyone be seated, please.

(Thereupon, the jury of 12 and 4 alternates were ex-
[fol. 3379] cluded from the courtroom.)

The Court: All right. Mr. Partin, you may be excused. Do not discuss your testimony or allow anyone to talk with you about it during the recess.

The Witness: Yes, sir.

(Thereupon, the witness was temporarily excluded from the courtroom.)

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[fol. 3384] By Mr. Hooker:

Q. Mr. Partin, on this trip, the last trip there that I asked you about, I believe you stated December 10, December 13 or 14, did you have occasion on that trip to go to O'Brien's Beefery at any time?

A. Yes, sir.

[fol. 3385] Q. Do you recall who you went with?

A. The usual crowd. I don't know who all it was.

Mr. Schiffer: We object to the form of the answer.

The Court: Sustained.

Mr. Hooker: I didn't understand, if Your Honor please.

The Court: They objected to the form of the answer and the Court sustained the objection.

By Mr. Hooker:

Q. Can you fix the date that you made this trip to the Beefery?

A. It was around the last day I was there, I would guess the 13th.

Q. Now, with whom did you leave the Beefery?

A. I left with Mr. O'Brien, Chuck O'Brien.

Q. And how did you leave?

A. In a taxi.

[fol. 3386] Q. Did you see or meet another car during that trip?

A. Yes, after we had ridden around 15 or 20 minutes.

Q. You say you left with Mr. O'Brien?

A. Yes, sir.

Q. Who is Mr. O'Brien?

A. Oh, he's an official of the Detroit local.

Mr. Silets: Your Honor, I'm going to object to these acts being done outside of the presence of any defendant with Mr. O'Brien. Now, the hearsay objection does not extend only to verbal utterances but also to acts and he is testifying to acts that were done by himself and Mr. O'Brien outside of the presence of any defendant and especially as to the Defendant Dorfman I enter my objection.

The Court: I am unable to see any relation as yet.

Mr. Hooker: I am going to connect it up, if your Honor please.

The Court: Proceed.

By Mr. Hooker:

Q. Was Mr. O'Brien ever in Mr. Hoffa's suite?

A. Yes, he was.

Q. How often?

A. Well, he was there quite regularly, most every day.

Q. You said you rode around a while in a taxi?

A. Yes, sir.

[fol. 3387] Q. At any time did either one of you get out of the taxi?

A. Myself.

Mr. Haggerty: Objection as incompetent, irrelevant and immaterial, may it please the Court, and no causal effect or connection with the Defendant Hoffa. What this man O'Brien did may be historically interesting, but it is certainly not applicable or material to this case.

Mr. Silets: Your Honor, further as to the Defendant Dorfman, these efforts which the witness is testifying occurred on the 13th or the 14th of December were at a time subsequent to the termination of any of the events charged in Count 4 of the indictment and as far as his own testimony with respect to that, and, therefore, under any circumstances it would be inadmissible against the Defendant Dorfman.

The Court: I am unable to determine the relevancy of it as to any defendant. I am of the opinion that your objection is valid as to Mr. Dorfman, Mr. Silets, and I am unable to determine it as yet.

Mr. Hooker: May I proceed?

Mr. Haggerty: It wouldn't be valid, may it please the Court, to others.

The Court: I am unable to determine that it is related to any defendant as yet, but overrule the objection until [fol. 3388] the Court can determine whether it is or is not relevant.

Mr. Hooker: May I proceed?

The Court: Yes.

By Mr. Hooker:

Q. Did either one of you get out of the car?

A. Yes, sir, Mr. O'Brien got out.

Q. Where did he go?

Mr. Haggerty: I object as incompetent, irrelevant, and immaterial.

Mr. Hooker: I think your Honor will see in answer to the next question the relevancy.

The Court: Overruled.

By Mr. Hooker:

Q. Where did he go?

A. He went to an old green two-tone Buick sitting on the right-hand side of the street.

Q. I hand you a photograph here, Government's Exhibit No. — I can't quite read it, it looks like 3, but I am not certain, 3, and ask you to look at that and state if it was a car similar to that.

Mr. Schiffer: Objected to as any similarity. We would like to have the car identified since this is one of the points which the prosecution has made so much of. I object to the word "similar." Is that the car?

Mr. Hooker: That picture was pointed out earlier— [fol. 3389] Mr. Berke: (Interposing) We don't want Mr. Hooker telling this witness what this exhibit is.

The Court: Sustain the objection.

By Mr. Hooker:

Q. Well, what type car was it, Mr. Partin?

A. The car that he went to was very similar to this car, it looks—

Mr. Branstetter: (Interposing) May it please the Court—

The Court: (Interposing) Sustain the objection.

Mr. Branstetter: That's exactly what the Court told this witness not to answer.

By Mr. Hooker:

Q. What color was it?

Mr. Haggerty: Just a moment.

The Court: Just a moment.

Mr. Haggerty: Let the Court give us a ruling.

The Court: Just a moment.

Mr. Hooker: I thought the Court had ruled.

The Court: Mr. Haggerty, did you have an objection?

Mr. Haggerty: I did have an objection. I say it's the very thing we have complained about.

The Court: I have sustained the objection and ask the jury to disregard that answer. The witness can describe [fol. 3390] the automobile without reference to any exhibit.

Mr. Hooker: All right.

By Mr. Hooker:

Q. What color was the car, Mr. Partin?

A. It was a two-tone green Buick.

Q. Now, what did Mr. O'Brien do?

A. He got out and went to the car and told me to drive on, to go on back.

Q. And did you go on back?

A. Yes, sir, I went on to the hotel.

[fol. 3391] Q. Where did you next see Mr. O'Brien?

Mr. Schiffer: Objected to, your Honor. This part I move that we strike the answers of the witness and the questions as related to a 2-toned green Buick automobile. It is obvious right now it is not connected up in any fashion to the witness' testimony.

The Court: Overrule the objection.

Mr. Haggerty: May it please the Court, I object to this entire matter and ask that this entire line of questioning be stricken because there was events that happened by people who are not defendants and, therefore, there can be no agency and co-conspirators and they are people entirely without and there is no agency proven on the part of O'Brien and any of these defendants. There is no agency between the witness on the stand or as co-conspirator and, therefore, I ask that the entire testimony be stricken.

The Court: I will reserve a ruling upon your objection at this time, Mr. Haggerty, until the Court can make an intelligent determination.

By Mr. Hooker:

Q. May I have an answer to the question, if your Honor please?

The Court: State your question.

Q. The question was, where did you next see Mr. O'Brien? [fol. 3392] A. Approximately 30 minutes later he came up to Mr. Hoffa's room.

Q. At the Andrew Jackson?

A. Yes, sir.

Q. Now, Mr. Partin, after this trip that you have described here, did you return to Nashville again after that?

Mr. Haggerty: Now, just a moment, your Honor, if that concludes the entire incident all the testimony to it I renew my motion that it be stricken as there being no—for the reasons that I have heretofore stated.

The Court: I am going to sustain that objection.

Mr. Haggerty: And ask that it be stricken and the jury be instructed to disregard it.

The Court: Yes, sir, the jury will disregard that.

Mr. Branstetter: This will be considered as to my defendant?

The Court: Yes.

By Mr. Hooker:

Q. Did you return to Nashville?

A. Yes, sir, I think I came back for two or three days the last time.

Mr. Silets: Your Honor, we haven't established that he left yet.

By Mr. Hooker:

[fol. 3393] Q. Well, did you leave or were you still there, Mr. Partin?

A. Yes, sir, I left.

Q. Do you recall the date that you came back?

A. No, sir, I don't remember. I know it was during the last of the trial.

Q. I hand you a document here and ask that—does this refresh your recollection about when you came back to Nashville?

Mr. Brown: Your Honor, on behalf of Defendant King we object to this line of questioning and on the basis that this is an act subsequent to the date set out in the indictment, November the 18th, is all my client is charged with in this indictment. We are now into December 15 and 16.

The Court: Overrule the objection. The jury will observe the instructions the Court has heretofore given to them with regard to what the Court—what the Court has previously given them.

By Mr. Hooker:

Q. Do you recognize that document?
A. Yes, I do.

Mr. Hooker: We offer it, if your Honor please, as Government's Exhibit No. 107 and ask that it be marked and passed to counsel.

[fol. 3394] (The hotel record referred to above was marked Government's Exhibit No. 107, witness Partin, for identification only.)

[fol. 3395] Mr. Alexander: May it please Your Honor, I notice the date of arrival is December the 16th, 1962, and the date of departure is December the 19th, 1962. I request that Your Honor instruct the jury that the Defendant Tweel is charged only with matters which occurred in November of 1962 and that none of this testimony would be admissible as to him under the indictment now pending.

Mr. Brown: Same motion for the Defendant King, if the Court please.

Mr. Silets: For Mr. Dorfman.

The Court: The Court has heretofore given what it believes to be the correct and appropriate instructions.

By Mr. Hooker:

Q. Mr. Partin, during these trips here to Nashville and the times you were in and around Mr. Hoffa's suite, did—What did you do, did you do anything particularly, any service there of any kind?

A. Yes, sir, the last part of the trial he had me guarding his door.

Q. Were you given any instructions about that?

A. Not to let anyone in or out unless it was O.K.'d by him prior.

Q. Who told you that?

A. Mr. Hoffa hisself.

Q. Did you on any occasion while you were in Nashville [fol. 3396] on these trips report any of the matters that you have testified about to any representative of the United States Government?

A. Yes, I did.

Q. To whom did you make such reports?

A. Mr. Walter Sheridan.

Q. Walter Sheridan?

A. Yes.

Q. How often did you or how many such reports and how often did you make them?

A. Well, it was numerous reports.

Q. Well, how did you make them with reference to the events?

A. Usually the same day they would happen.

Q. Same day that the event would happen you would report it to Mr. Sheridan?

A. Yes.

Q. Now, Mr. Partin, have you been paid any part of your expenses, either directly or indirectly?

A. For the Nashville trips?

Q. The various trips that you made in connection with this occasion?

A. Would you define when you are speaking of, sir?

Q. Well, you have been—, have you been since this other trial when you were here, have you been to Nashville on [fol. 3397] any other occasion?

A. Yes, sir.

Q. And where did you—, did you confer with any people representing the government there?

A. Yes, I did.

Q. Do you know now how many such trips that you made?

A. It was two or maybe three, as I said, I am not positive of the amount of them, no, sir.

Q. Did you make any trip to any other place other than Nashville to meet with representatives of the government?

A. Yes, I did.

Q. Where was that to, what place?

A. Columbia, Tennessee.

Q. Any other place besides that?

A. Birmingham, Alabama, I believe, and New Orleans, I believe.

Q. Have any of those expenses been paid to you or indirectly paid to you in any way?

A. Yes, sir, they have.

Q. And how was that done?

A. I couldn't swear how it was done, sir, I know what was done for, though.

Q. Well, to whom were the payments made? You said paid indirectly.

[fol. 3398] A. They were paid to my wife.

Q. Have all of your expenses been paid in that manner, that is, up to date, or are there still some expenses owing to you?

A. They still owe me.

Q. Do you have any case pending now in the United States District Court at any place in the United States?

A. Yes, sir, I do.

Q. Where is that?

A. In New Orleans.

Q. Have you been promised anything in connection with that case?

A. No, sir.

Q. Will you state to the jury what the charge is.

A. It's a violation of the Landrum-Griffin reporting act under the disclosure of union funds is the title of the document, it's under Landrum-Griffin disclosure act, reporting and disclosure act, I believe they call it.

Q. Whether in connection with that case or in any other connection has any promises been made to you by the government?

A. No, sir, and I haven't asked for any.

Q. Have you ever been convicted of any felony, Mr. Partin?

A. Yes, I have.

[fol. 3399] Q. When was that?

A. Oh, it was when I was 18 or 19 years old, twenty-something years ago, I don't remember the exact date, it was twenty years ago.

Q. And did you serve time for that?

A. Yes, I did.

Q. Where?

A. In a reformatory.

Q. Was Mr. Hoffa acquainted with your record in that connection?

Mr. Brown: Objection.

Mr. Berke: Objection.

The Court: Sustained.

Q. Well, as a full-time employee of the union is that part of your record?

A. Yes, it is, it's reported.

[fol. 3400] Mr. Berke: Your Honor, we want to object to that as a leading question, if your Honor please.

The Court: Sustained.

Mr. Berke: Will your Honor instruct the jury the answer to be stricken?

The Court: Yes, sir, it is a legal question.

By Mr. Hooker:

Q. Has the International Teamsters Union had any hearings in connection with the matter about which you are indicted now in the United States District Court?

A. Yes, sir, they have. There has been the identical charges.

Q. Sir?

A. The identical charges, yes, sir.

Q. And you still are presently secretary-treasurer of the local at Baton Rouge?

A. Yes, I am. I would like with the Court's permission to explain to the jury—

The Court: (Interposing) No, do not volunteer any information.

The Witness: Well, it is in respect to this.

The Court: Well, do not volunteer any information. Otherwise, we have to depend upon the lawyers to ask questions and have the Court have an opportunity to pass upon the propriety of the question.

[fol. 3401] The Witness: Yes, sir.

By Mr. Hooker:

Q. I don't think I asked you, Mr. Partin, what is your present age?

A. I will be forty years old next month.

Q. Are you a married man?

A. Yes, I am.

Q. Do you have any children?

A. I have five.

Q. Are you and your wife presently living together or are you separated?

A. We are both separated, legally separated, no, sir.

Q. You are not legally separated but have you been somewhat estranged and separated actually?

A. Yes, sir, until at this time I separate myself from the Teamsters I am separated.

Mr. Silets: Objection, your Honor.

The Court: Sustain the objection. I ask the jury to disregard that question and answer.

Mr. Schiffer: Your Honor, in view of that answer of the witness I move for a mistrial insofar as Mr. Parks is concerned because again it leaves this kind of an innuendo under any instruction from the Court that the jury cannot disregard that remark and it has gone so deep now coupled with all of the others to which we have made proper ob- [fol. 3402] jections throughout this trial we feel we are entitled to a mistrial as far as Mr. Parks is concerned.

The Court: Overrule the objection. All right, you may cross examine.

Mr. Silets: Is the government going to furnish us with copies of statements of this man made to the government?

Mr. Hooker: I have no statement, if your Honor please.

Mr. Neal: Your Honor, it might be appropriate if the jury be excused for about a couple of minutes.

The Court: All right. The jury will please step out.

(Thereupon, the jury of twelve and four alternates were excluded from the courtroom and the following proceedings were had, to-wit:)

COLLOQUY BETWEEN COURT AND COUNSEL

Mr. Neal: May it please the Court, the only thing that we have, we think falls within the Jencks Act, is a thing that has been referred to various times as a secret document submitted to Judge Miller in the case of United States versus James R. Hoffa and Commercial Carriers, Inc. It has been in the possession of United States Marshal Elmer Disspayne. He handed it to me this morning. The Court can note that it is still sealed. I have an order permitting me now to unseal it and hand it either to the Court [fol. 3403] or to counsel for defendants.

The Court: Well, you are ordered and directed by the Court to deliver unto defendants any and all statements

that would be required to be delivered under the Jencks Act.

Mr. Neal: Well, I am not sure whether this would be under the Jencks Act or not, but the government did not want to contest this. I want the record to show, however, that I am opening this for the first time.

The Court: Let it be filed for—

Mr. Berke: (Interposing) You do not lead us to misbelieve that you don't know what it is in it?

Mr. Neal: Yes. No, I am leading you to believe and I want you to know that I have not opened this since it was delivered to me by the United States Marshal this morning, that is what I want you to know.

The Court: Well, I will allow the envelope to be filed for identification purposes only after it has been opened.

Mr. Alexander: Somewhere along the line we got off the track on Jencks Act statements on Partin, were there any on him?

Mr. Neal: This is the Jencks statement on Partin.

Mr. Alexander: Oh, this is the statement?

Mr. Hooker: That's right.

[fol. 3404] Mr. Silets: Is it the government's representation that this is the only Jencks statement?

Mr. Hooker: That's right.

Mr. Neal: We have submitted to the Court heretofore the notes of both the original notes and the typewritten notes.

Mr. Schiffer: Your Honor, I understood there were many notes which were handed to the Court which had been prepared by Mr. Walter Sheridan that later on six or seven months after he composed those notes he made typewritten notes based upon those notes and distributed them to the FBI. We feel that we are entitled to all of those notes, the originals, the typewritten ones, and these which of course the government is offering at this time prior to our undertaking cross examination intelligently of this witness.

Mr. Neal: Your Honor, excuse me, just a moment, may I finish up this matter before that? I would like the Court

to note on the record that I am separating part of the material and will hand part over which is an affidavit of the witness who has just left the stand. The other being affidavits of an FBI agent. I will hand the affidavit of the FBI agent to the Court. Both are attached as part of the document. I'm taking out for the record and in view of everybody—

Mr. Branstetter: (Interposing) May it please the Court, we don't agree to his taking this apart, not one part of it.

[fol. 3405] Mr. Neal: I will hand it to the Court as I have authorization to by order and I here ask it to be filed.

Mr. Branstetter: I haven't seen this order and I don't know where it has been filed.

Mr. Neal: I hand the Court an order and letter addressed to me.

Mr. Schiffer: Do I understand on behalf of Defendant Parks that the Court, United States Court, issued an order containing or pertaining to this case to Mr. Neal and it was kept secret from the Defendant Parks and his counsel? I should like the record to be clear on this, your Honor, because if that has happened, I move for a mistrial at this time and dismissal of the indictment. I can't conceive of it being due process that a Court of the United States or a Judge thereof issued an order ex parte and kept that from the knowledge of the defendant and his counsel. And communicated that moreover to the litigant in this case. And I protest this action and I believe it is a complete violation of due process and certainly a violation of the constitutional rights of the defendant.

[fol. 3406] Mr. Neal: As your Honor will note this is an order signed by Judge Miller and Judge Gray of the Middle District of Tennessee merely—just a moment, Mr. Schiffer.

Mr. Schiffer: All right.

Mr. Neal: Merely directing the document I have handed the Court authorizing the transfer of the document I have now handed the Court from the possession of the United States Marshal to me. I have now handed that document with the order of the Court and, as far as I am concerned Mr. Schiffer can peruse it.

Mr. Schiffer: Your Honor, we should like all of this be made a part of the record produced under the Jencks Act and provide it to counsel, but I must say at this time that I make a formal motion for mistrial and dismissal of the indictment as against the Defendant Parks because according to the statement of Mr. Neal, as I understand him, two judges of the United States Court have been used by the government in this case, made an accessory to an act on the part of government counsel and deprived the defendant and his counsel of the knowledge of what was going on between the Court and counsel and certainly with Mr. Parks he was never a part of the prior case referred to as the Test Fleet case in Nashville, your Honor, and so far as his rights in this case are concerned he has been deprived, especially under the bill of particulars.

[fol. 3407] If your Honor will refer to the bill as the demands made in the motions, both oral and written on behalf of Mr. Parks, that he be advised of what the contents of this envelope were. He was never so advised. He was refused any information concerning it by both judges, who apparently have permitted the government, as an adversary in this case, to partake of an ex parte order depriving the Defendant Parks of evidence which concerns his case.

I never heard of such a proceeding where the Court permits itself to be used by one litigant as against another and I believe it violates due process in Constitutional rights. I so move.

Mr. Haggerty: May it please the Court, may I further call to your attention that this sealed envelope was handed to Judge Miller. I don't know what is in it but I have a good idea now and that sealed envelope was handed to Judge Miller during the course of a secret session in Nashville.

It's quite apparent now if the information contained therein is what I expect it is that it shows the contamination that existed in that case at that time and I say that the contamination that existed in that case, despite Judge Miller's action in sealing the envelope and not disclosing

it nor taking any action nor having a hearing on it, runs over and goes into this case as far as it affects the Defen-
[fol. 3408] dant Hoffa.

It is perfectly obvious that this man is an undercover agent for the FBI from the position he occupied and the information he furnished the government during that trial was leaking to the FBI, particularly to Walter Sheridan, information that should have been peculiarly privileged and limited to the defense counsel and to the defendant himself.

Mr. Neal: Could the witness be excused, your Honor?

The Court: All right, yes, you may step out.

(Witness temporarily excused.)

Mr. Haggerty: And may I say further that armed with this information Judge Miller continued to try the case, holding within himself, within his own conscience and not disseminating that information nor taking any formal proper legal action on it.

The Court: Well, gentlemen, the order has just been handed the Court, it is the first knowledge that the Court had of this matter. I will allow it to be filed for the record in this case as the next exhibit filed for identification only.

Mr. Saulpaw: No. 108.

The Court: Exhibit No. 108.

(The document referred to above was marked Exhibit No. 108 for identification only.)

[fol. 3409] Mr. Branstetter: May it please the Court, on behalf of the Defendant Campbell—

The Court: (Interposing) Let me just make a notation, please, Mr. Branstetter.

Mr. Branstetter: Excuse me.

The Court: All right, Mr. Branstetter.

Mr. Branstetter: On behalf of the Defendant Campbell, of course, I join in with the objections that have been made with reference to this and in order that the record may be quite clear various motions were heard by Judge Gray.

This particular envelope was handed to Judge Gray. I state this for the record. I think that all records were transferred here and my statements will be borne out by the transcript.

There was an objection at that time that the matter not be presented to Judge Gray, nonetheless, Judge Gray opened this envelope, appeared to be reading in every particular, although it did not appear to have as many pages as now appear, frankly, to me just looking, but I could have been mistaken. The envelope then was sealed, as I understood it, and handed to the United States Marshal.

The orders that have been now issued to Brother Neal here I have not seen, I know nothing about them. We did object prior to the time that Mr. Neal opened this envelope here in court to it being opened. We want the record clear. [fol. 3410] Mr. Neal: Your Honor, they did not object to that envelope being opened.

The Court: Well.

Mr. Branstetter: At least I believe the record will show that I objected to it being opened.

Mr. Haggerty: Your Honor, I wish to, for the reasons that I have stated in reference to the manner in which Judge Miller conducted himself in reference to this envelope and the information contained therein, I wish to renew our motion and add that to the evidence taken by your Honor on the hearing that we had on the motion to suppress and this is an additional ground for a suppression in this case of this witness' testimony and I ask because of the state of the proof at this time for a mistrial.

Mr. Branstetter: Of course, the Defendant Campbell joins in the motion for a mistrial also, may it please the Court.

The Court: Very well. Allow all motions made on behalf of the defendants or any of them with regard to the matters we have just been discussing and the so-called sealed envelope and the order in connection therewith be overruled.

All right. Gentlemen, the Court has been handed as being the contents of the envelope which has just been

[fol. 3411] opened two documents clipped together, one is a document bearing the signature of E. G. Partin, the other is a document purporting to be a statement by a member of the FBI.

Let's file the envelopes. There are two of them. Was one inside the other?

Mr. Neal: Yes, your Honor. If your Honor wants me to indicate which one was inside by the writing.

The Court: I assume the date would reflect that. One is dated December the 20th of '62 and another dated "Sealed in Open Court on July the 25th, 1963."

Mr. Neal: Yes, your Honor.

The Court: One is signed by Judge Miller and the other is signed by Judge Gray. Identify the envelope signed by Judge Miller as the next exhibit for identification purposes only.

Mr. Saulpaw: 109.

(The envelope referred to above was marked Exhibit No. 109 for identification only.)

[fol. 3412] The Court: Exhibit No. 110, then will be an envelope signed by Judge Frank Gray, Jr. File it for identification purposes only. Let's be in recess, gentlemen, for about five minutes.

(Thereupon, the envelope signed by Judge Gray referred to above was marked Government Exhibit No. 110 for identification only.)

(Thereupon, at 4:00 o'clock p. m. court was in recess.)

(Thereupon, after recess court was in session.)

The Court: Gentlemen, with regard to the documents just having been discussed and the documents having been removed from the sealed envelope, the Court will deliver unto the defendants the document signed by E. G. Partin. Is this a copy that you are to deliver? Or this that you propose to deliver, Mr. Neal?

Mr. Neal: Well, we will deliver the original but we would ask for it back, Your Honor. We deliver the original for

cross examination purposes as a Jencks statement whether it technically might be or not.

The Court: All right.

Mr. Neal: But we expect, of course, the original back.

The Court: Now, the other document in that envelope was a statement by an FBI agent which the Court has examined and which would not relate to this witness on the [fol. 3413] production of any Jencks documents. This document may be sealed and filed as the next exhibit and sealed.

The Clerk: No. 111.

The Court: Exhibit No. 111?

The Clerk: Yes, sir.

(The document referred to above, FBI statement, was marked Government Exhibit No. 111 for identification only.)

Mr. Alexander: How about No. 108?

The Court: No. 108 was Judge Miller's envelope; and No. 110 was Judge Gray's envelope. This will be No. 111.

Mr. Neal: May it please the Court, may we have an understanding that the original of what is being handed over will be returned to the government after its use for cross examination purposes?

The Court: Well, if there is any question about it, why not reproduce copies now? Can we not reproduce copies and get everyone copies?

Mr. Neal: I will get copies or they can join me in it.

Mr. Berke: Go ahead and reproduce them.

Mr. Neal: Are you satisfied for us to reproduce them?

Mr. Berke: Sure, and if they are not any good we will reproduce them.

Mr. Schiffer: Your Honor, for a point of elucidation, on [fol. 3414] No. 111, Your Honor has referred to that?

The Court: Yes, sir.

Mr. Branstetter: May it please the Court, do I understand the record to be thus at this point, there were three sheets of paper, three separate pieces of paper in the two sealed envelopes?

The Court: That's correct. The first two papers were a statement by an FBI agent that did not relate to this witness, Mr. Partin. And those first two pages the Court has sealed and filed as Exhibit No. 111.

Mr. Branstetter: I'm trying to have the record clear, all three pieces of paper were actually clipped together with a staple?

The Court: Yes, sir.

Mr. Branstetter: And have now been taken apart?

The Court: Yes, sir.

Mr. Branstetter: Of course, we object to that without seeing the balance.

[fol. 3415] Mr. Silets: Your Honor, there has been some colloquy by Mr. Neal as to the events that Judge Gray sealing this document and turning it over.

On the date of July 24th, 1963, when this occurred I entered an objection to this procedure and I stated on Page 58 of the record, and if Your Honor would permit I would like to respond to Mr. Neal. He and in his brief has suggested the contents of the document, the envelope which is now in Judge Miller's possession, be turned over to Your Honor. I would object to that because by that very technique he is seeking to restrain the defendants from discovery.

"If we are properly allowed to discovery he is now saying it is beyond the purview of the defendant to obtain this because Judge Miller has it and we want this to continually be restrained and outside of the province of the defendants or of their view by giving it to Judge Gray. Now, I am prepared, if Mr. Neal seeks to argue this very issue, I will argue, but I will not agree that this document by virtue of the government's taking some unknown evidence, unknown to Mr. Parks", this should have been Mr. Dorfman but it's the same as to Mr. Parks, the record here says Mr. Parks, "He was not a defendant in that case, he was not present at the secret sessions. I don't know what that has in it. The government knows. It's a novel and interesting technique the government should take what appar-

[fol. 3416] ently is very pertinent and material evidence and permanently withdraw it from the observation of the defendants by placing it in the custody and control of the District Court. I object to that."

Now, Mr. Neal indicated that there was no such objection. Now, I say at the very instance at the outset when these pre-trial motions were filed the government knowingly, together with the consert of Judge Miller and Judge Gray, both reacted and restrained from the defendants any ability to discover this kind of evidence, whether it was discoverable under Rule 16 and 17, this was never permitted to be available to the defendants.

Now, again, Your Honor, at this point to permit this very evidence—, this goes back to the motion to suppress—, to permit this very evidence which has given rise and was born out of an illegal situation, and I might say with the consent and knowledge of Judge Miller, to allow this to be the basis and foundation for leads and conversations that this witness Partin is making concerning the Defendant Dorfman is the very basis of the motion to suppress.

There was the poisoned tree and that fruit has been picked and delivered to this jury this afternoon. The fruit of the poisoned tree has been eaten by this jury. They have been so prejudiced by this illegal evidence that the Court cannot do anything now except grant a mistrial.

Now, Your Honor, I also want to point out to the Court [fol. 3417] before we get into the proposition of the Jencks situation.

The Court: On your motion for mistrial, I believe that should be overruled.

Mr. Haggerty: Wait a minute, Your Honor, I desire to join in that motion.

The Court: All right.

Mr. Branstetter: So does the Defendant Campbell. Also, in order that the record will be kept straight, also at Page 59 to what Mr. Silets was reading, being a transcript of the hearings in Nashville before Judge Gray, there was an objection by myself to the use of this for any purpose and

asserting that it was illegally obtained evidence by wire tap or otherwise.

Mr. Silets: Your Honor, now this afternoon—

The Court: (Interposing) I wonder if we may not dismiss the jury for the day? Do you think this matter is going to—, it's 4:15—, be no reasonable prospects of getting to any meaningful cross examination. All right, Mr. Officer.

Will counsel desire that the jury be brought back into the courtroom for the usual instructions or will counsel waive those instructions?

Mr. Branstetter: No.

The Court: I understand that all counsel waive those further instructions.

Mr. Neal: And the witness?

[fol. 3418] Mr. Hooker: The witness may be excused, Your Honor.

Mr. Brown: I don't know about that, if the Court please. I would like to bring up one matter to the Court before the witness is excused.

The Court: All right.

Mr. Branstetter: We also want the witness instructed.

The Court: All right.

Mr. Silets: Excuse me. Your Honor, the witness, at the conclusion of his testimony, began to testify to, as Mr. Hooker so graciously calls, his last trip, December 16th through the 20th, at which time at 7:28 a. m. he checked out of the hotel Andrew Jackson in Nashville.

Now, I made an objection at that time that the Court instruct that the jury that no matter what happened in those days and whatever testimony he made concerning those days that it would not pertain to the Defendant Dorfman.

Your Honor said, "I have already instructed the jury concerning that matter."

Now, I point out to the Court that part of that time the witness had testified that Mr. Partin had said that the witness had testified that Mr. Partin had spoken to Mr. Tweel

over the telephone and Mr. Tweel had said, "Things are hot. All the conversations and the train station and pay [fol. 3419] phone and O'Brien's Beefery, they had inside information on every move we made." He, Tweel, said, "We can't afford to fool around with it."

Now, under any theory of proof, no matter what the government is attempting to establish here, agency, conspiracy, or what-have-you, at this point the co-conspirator has withdrawn from the conspiracy, December 16th.

Now, there is then no possible or conceivable basis for the testimony of the witness Partin as to events occurring after this date of withdrawal to go into evidence as against Defendant Dorfman or, for that matter, against the Defendant Tweel.

[fol. 3420] Now, we are entitled, your Honor, to a specific and direct instruction that anything that occurred from the point after the withdrawal from the conspiracy should not under any circumstances and cannot under any circumstances be used for any purpose whatsoever. And the Court must make, in my opinion, and I suggest to the Court and so move that a specific instruction be made to this jury to disregard anything that happened following this conversation between Partin and Tweel against the Defendant Dorfman or as a matter of fact, against the Defendant Tweel for any use whatsoever.

The Court: The Court will take your request in that respect under advisement and consider the matter overnight.

Mr. Brown: If the Court please, at this time on behalf of the Defendant King we move for a mistrial on the basis of the last question put to this witness at which time an objection was made and the Court sustained it and instructed the jury to disregard it wherein Mr. Hooker asked him the question regarding his estranged wife and at that time he didn't understand. Mr. Hooker repeated it. And it is our position that Mr. Hooker knew what the response would be from this witness and also knew it would be highly prejudicial to not only this client of mine but every

defendant here, not only Defendant King but every defendant who is a member of the Teamsters Union.

[fol. 3421] That Mr. Hooker made this statement, made this question to this witness knowing that he would make that answer and if the Court would take judicial knowledge of the fact to put it in the nicest terms I know that this man has gone over his testimony with Mr. Hooker, and that certainly Mr. Hooker knew that that would be the response and on the basis of that, and the prejudice that it has brought to the Defendant King, we move for a mistrial and if there is any doubt in the Court's mind we ask the Court to call the witness back to the stand and ask him if he didn't discuss this same thing with Mr. Hooker before Mr. Hooker made that statement.

Mr. Hooker: I had no idea he was going to make that answer, if your Honor please.

The Court: Let's take one motion at a time. Overrule that motion. Let's have Mr. Partin step in. Obviously we will not get to cross examination.

Mr. Silets: May the record disclose that the defense is returning the original of the secret document?

Mr. Brown: What was the date of that?

Mr. Silets: 19th day of December, I believe it is the 19th day of December, 1962.

Mr. Schiffer: The 19th?

Mr. Silets: It was notarized on the 19th.

Mr. Haggerty: What is the name of the notary?

Mr. Silets: James L. Murphy, is that correct, Mr. Neal?

[fol. 3422] Mr. Neal: That is what it looks like to me.

(Thereupon, the witness Partin returned to the witness stand and the following proceedings were had, to-wit:)

The Court: Mr. Partin, the Court is going to excuse you at this time to be back at nine o'clock in the morning. Now, do not discuss your testimony with anyone. Do not allow anyone to discuss your testimony with you.

The Witness: Yes, sir.

The Court: During the period of time that you are in recess. And be back at nine o'clock in the morning.

The Witness: Yes, sir.

Mr. Berke: That includes the government attorneys, your Honor?

The Court: Yes, that includes anyone, just do not talk about your testimony with anyone.

(Thereupon, the witness was excused.)

The Court: Yes, Mr. Schiffer?

Mr. Schiffer: May I address the Court, your Honor?

The Court: Yes.

Mr. Schiffer: Your Honor, I should like to read into the record at this point my statements before Judge Gray on July 24, 1963, and I refer to page 63 of the minutes of that date, of the transcript. I beg your pardon, Judge, [fol. 3423] we were just having colloquy.

Mr. Neal: I was just suggesting that they are matters of record in the case and maybe it might be that we could all get out here a little early that he could cite the page rather than read it.

The Court: Let's see what the significance of it is, his interpretation.

Mr. Schiffer: First, your Honor, in connection with this sealed envelope and with other matters that were then pending before Judge Gray insofar as the motions were concerned.

Mr. Neal had represented for the government as reflected on page 63, that the government has nothing in its possession, no evidence obtained by any illegal means. It represents that it has no fruits of any evidence obtained by illegal means.

Now, with reference to the record of the several motions made on behalf of the Defendant Parks by me and joined in by several of the other defendants, and we, of course, adopted and joined in several of the motions of the other defendants, the fact is that I had reference to this very sealed envelope.

[fol. 3424] Now, the representation as I understand it, Your Honor, before Judge Miller and Judge Gray was that there was nothing in that envelope except what pertained to this case. There was direct representation as I understood it and certainly by inference that they were handing up in this envelope something connected with the case and something totally unrelated to the very issue of the Jencks statement what was contained in those Jencks statements.

And, therefore, I ask Your Honor in view of the motions I have already made last year concerning this very sealed envelope that anything which is in this envelope we are entitled to, whether or not Your Honor may feel it is connected or unconnected, because by a representation of the government counsel they said it had to do with this very issue which we are trying before Your Honor and so I must ask Your Honor in keeping with the cases in point on the Jencks statements that since the government has represented on the record to Judge Gray and we, of course, accepted the representation, that whatever is in it was in the sealed envelope, had to do with the issues in this very matter and we feel, therefore, that on that representation we are entitled to see everything in the envelope rather than what is the government, what the government may feel we should see or should not see.

We may have a lead in that very document, Your Honor, [fol. 3425] which you have re-sealed and again we are left in the dark as to what is in that envelope. Now, it may very well be that with our own efforts certainly without any assistance from the government or its representatives here that we will develop and show that it is a document which remains in the sealed envelope now which has not been exhibited to us, that it contains matter which we can use not only for cross examination but to show that the government used illegal means to obtain the kind of evidence they say they obtained.

And, therefore, I respectfully ask Your Honor, I urge Your Honor to permit us to have the contents of the entire envelope rather than picking and choosing as the Court

may when the government itself said everything in there pertains to this case.

We accepted the representation. We are entitled to rely upon their representation. Now, Your Honor, we respectfully urge the Court to give us what the government said pertains to this case and they said everything in the envelope does.

It should not be hand-picked now. The representation was made to the Court in this sealed envelope both before Judge Miller and in the original case of Test Fleet and before Judge Gray that what is in this envelope the government resisted our seeing. Counsel for the defendants because it pertained to secrets, secret evidence of the matters [fol. 3426] which the indictment speaks of.

Now, we have a right to rely on the representation of the government. Now, we find that the representation is not true because this Court now says to the defendants, well, you are only going to get part of what is in the envelope and we are going to re-seal the other parts.

[fol. 3427] Your Honor, I believe, is in this position, as I say this most respectfully, if the government itself has taken the position that what is in the envelope pertains entirely to the case then, your Honor, we are entitled to see what the government represented as being contents of that envelope relating to the case and if they do relate to the case as substantiated by the statement of the government then we feel that we are being deprived now of certain parts of the contents of the envelope to be used for the defense of these respective defendants and upon that rely upon the government representatives and we feel will be a violation of due process at this stage of the game and a game brought on by the government and that we now not be put in a position where we need not now again rely upon the government's representation that now not everything in the envelope pertains to the case.

They can't have it both ways, your Honor. We are entitled to the entire contents and we respectfully urge that in all due justice by and for the defendants, and they relied

upon the government representation, why, let us see all of the contents of the envelope because we feel we are going to be deprived of some matter in that envelope now which we cannot see which is vital to our case. It may concern wire tapped evidence from some source, it's an affidavit, we understand, from an FBI man.

[fol. 3428] Under the Jencks rule it isn't a question of selecting some and sequestering others and then giving the defendants only part. As I understand the rule, we are to be given all and we understood the rulings of the Court up to this point had been in every question where the Jencks Act was discussed, the Jencks case was discussed, that everything was given to the defendants. Now, for the first time there is going to be sealed activity.

Now, if it is an affidavit of the FBI may I respectfully urge upon the Court that it has been the position of the Defendant Parks from the very beginning of this case that the case is based upon a frame-up where he is concerned and if the FBI were taking their direction, as we know now, this is in the record, from the officials charged with the prosecution of this case, then they were subservient to the people who gave them their orders, who are the government counsel and Mr. Walter Sheridan, therefore, we urge your Honor to give us everything that the FBI turned in as work performed in this case in any respect because we need that for a further examination to develop the whole truth here and that is the purpose of the Jencks rule, is the development of the truth.

I see another note on Page 69 where Mr. Neal represents, "I represent to the Court as an officer of the court, or I will take the stand and testify in answer to this question, [fol. 3429] that we ask, there is nothing in the contents of that envelope which was obtained illegally or the fruits thereof, and when I say this I am well aware of wire tapping and divulgence is illegally obtaining of evidence and I am probably the only one in this room who has seen the contents of the envelope."

How unfair, your Honor, he has seen the contents of the envelope and he is left to be the judge as to what we are to be delivered by the Court under the Jencks rule. [fol. 3430] He then is in the position where he can select by himself and by himself alone what we shall see. He knows what is in the envelope.

A judge sat in the first case knowing what was in the envelope and yet continued the trial. I believe that was a violation of every concept of the due administration of justice. The second judge who sat on the case, Judge Gray, ultimately recused himself, of course, but he opened the sealed envelope, saw what was in it and as a result, because of certain motions we made and his own feeling about the overall case, he recused himself.

But are we to be deprived now where Mr. Neal, knowing the contents of this sealed envelope, and particularly with the statement made by a member of the FBI working on this very case, your Honor, and the other two judges having read these statements and kept them from us, and now that we are ready for a cross examination of one of the key witnesses for the prosecution, at this time we are being deprived of a very vital weapon for cross examination.

The whole activity of all of the FBI here is in question, your Honor. Anyone, including Walter Sheridan, who had anything whatever to do with any of the preparation of this case, all of his notes and their notes must by the rule of law be turned over to us.

Now we find a sealed activity. Now, there is one FBI [fol. 3431] agent who makes an affidavit and as to what he has done, why, that is remain secret and we cannot find out because now it's going to be sealed again when the representation is made by the government, your Honor, as I have read everything in that envelope concerning this case. How can an affidavit of an FBI man now be so distinct that it can be sealed again? Why, it smacks of a star chamber proceeding where one is given what the government wants it to have and then deprived of what their ultimate defense can possibly be. There is no stronger weapon we have in

cross examination, your Honor. That is the purpose of the whole Jencks rule.

May I further—

The Court: (Interposing) Well, Mr. Schiffer, isn't the Jencks rule rather clear? Congress has passed a law in which they say that the government must open up their files to the defendant and give the defendant their files to the extent that the Jencks Act provides and generally that provides that any statements of the witness should be given unto the defense so the defense will have all that the government has in that respect.

The Jencks Act also provides that if there are other documents which the government represents does not require disclosure or are not statements of the witnesses and do not require disclosure, under the Jencks Act that the [fol. 3432] government is not the one to say whether that should be done but rather the Court must pass upon it and the Court has done that and is of the opinion that it is not a document that is in any way required to be under the Jencks Act made available and that it is not a statement of this witness and if the Court is in error in that the document has been sealed and the Court of Appeals will have an opportunity also to pass upon that.

Is there any misunderstanding about that?

Mr. Schiffer: Of course, I want to obviate the necessity of going to the Court of Appeals because as a result of the cross examination of this witness, among others—

The Court: (Interposing) What rights—

Mr. Schiffer: (Interposing) We hope it will never reach that stage.

The Court: What right does this Court, though, have to deliver documents of the government other than as provided by law?

Mr. Schiffer: Except these are not documents of the government any more. The moment the representation was made that the contents of this sealed envelope, your Honor, contained matters which concerned the prosecution of this case and gave it to the Court and asked the Court to seal

it and the Court took it and never gave the custody of that document or that sealed envelope any more back to the government.

[fol. 3433] The government has control and jurisdiction on that sealed envelope. This belonged then to the Court and the judges of the court.

The Court: Well, isn't that true every time a document is submitted to the Court for examination and production that it decides is not proper to produce it, the Court seals the document and files it in the record? Isn't that done every day?

Mr. Schiffer: It is not done every day in my experience because the government said they didn't even want to keep possession of it. This is such hot information, your Honor, it had so much to do with the issues in this case that they wanted the Court to take the responsibility, seal it and keep it within its own possession which the Court did. But in this case, your Honor, we have further questions which we have raised before on these prior motions. Pardon me.

Well, I have practically concluded but Mr. Silets had some additional thoughts that I want your Honor to listen to.

Mr. Silets: The only additional thought I have, your Honor, is that the Court is obviously considering this exclusively within the framework of the Jencks Act.

My suggestion to the Court is that the basis for this document is not necessarily a Jencks statement alone but in addition thereto there have been this FBI report formed [fol. 3434] the basis and the framework for the entire prosecution. Now, for the government to say that they are not going to disclose this falls far short of the requirements of the government as prosecutor as well as being representative of all the people, including the defense that this was in fact and is a relevant piece of evidence. This is what is important, is this a relevant piece of evidence?

Now, your Honor, I cite to the Court, I don't have the citations, but in this proposition not exactly within the framework of Jencks but relevant evidence which should

be produced in court, United States versus Reynolds, United States versus Andolschek.

The Court: Would you be able to get those citations for me?

Mr. Silets: Yes, sir, I think I will be able to get them in a moment. Andolschek is 142 F. 2nd 503, your Honor.

The Court: Excuse me. Sorry, I didn't hear you.

Mr. Silets: 142 Fed. 2nd 503.

Reynolds versus United States is 345 U. S. 1. 1953 case.

The Court: All right.

Mr. Silets: Now, your Honor, a final proposition which has not been brought up yet, are those fabled notes of Mr. Sheridan. Now, I know the Court has reviewed those [fol. 3435] but I think the Court should consider this proposition, Mr. Sheridan has gone through one very large lawsuit apparently last year or year or 14 months ago in the Test Fleet case.

Although he is not an attorney he is certainly aware that a note that is a verbatim or substantially verbatim note or has been subscribed to or accepted by a witness that it then becomes a note, a statement within the framework of the Jencks Act.

Now, it is fairly obvious to me that Mr. Sheridan from his testimony when he took these statements from the Witness Partin said he took a cryptic note which I guess another word for it would be a shorthand note which he could then decipher and did in fact decipher and expand upon and indicated what the witness had told him previously.

Now, I suggest to your Honor there is no difference between this and any shorthand note and whether in fact he in his statement said Partin said I said, Partin said, I said, if it is a summary which constitutes a substantially verbatim reflection of what Mr. Partin said, then this falls within the Jencks Act.

It doesn't have to be identical. It doesn't have to be identical word-for-word statement that Mr. Partin made.

Your Honor, I furthermore say that it seems to me that by the knowledge of Mr. Sheridan, that is, taking of a cryptic note, and if the Court feels that that cryptic note [fol. 3436] and the expansion thereon does not fall within the Jencks statute, Title 18, Section 3500, I suggest to the Court that there was an evil motive attributable to that because he knew and the government knew that this man was going to be a witness.

He of necessity knew that he was going to be a witness because their entire case apparently is predicated upon his testimony. It seems to me obvious that from the moment he spoke to this man, he caught, he reflected in his notes only what he wanted to so as to fall without the ambit of the Jencks statute.

[fol. 3437] Now, I'm not saying that this is the ultimate result because I can't say that until I would have an opportunity to examine those notes, but if the Court decides as I hope the Court should not, but if the Court should decide that they don't fall within the Jencks statute, then the next proposition to be considered by the Court was this action taken by Mr. Sheridan done wilfully and intentionally to subvert the meaning and the purpose of the Jencks act. If it was, it is no different than the agent who knowing that his notes would have to be produced in court wilfully and intentionally destroys those notes to subvert the action of the statute.

I say to Your Honor this, that there can be no other reason for Mr. Sheridan to take his original notes in such a fashion other than to subvert the act. And that is apparent by his statement that later on seven months later he was able to take a one-word statement, expand upon it, and based upon that expansion, he turned it over to the FBI and the FBI based thereon said Walter Sheridan from an unknown source gave the following information and the FBI then conducted its investigation.

[fol. 3438] Your Honor, I suggest this, that first the notes are producible and should be produced because they do fall within the framework of the act. Secondly, or in the

alternative, if the Court rules against us on that point that the taking of the notes were done in such a fashion that they constituted bad faith on the part of the government with the intention to subvert the meaning of the statute and I suggest under either one of those bases that the Court should and must turn the notes of Mr. Sheridan over to us if we are to proceed with a fair and impartial hearing.

The Court: All right.

Mr. Silets: I cite Your Honor United States versus Grayson 166 Fed. 2d 863.

The Court: All right.

Mr. Neal: I wanted to state briefly, Your Honor, that I think the notes themselves speak for themselves and that they are not substantially verbatim, even if the original notes were contemporaneous, they are certainly far from substantially verbatim, not only according to the testimony of the witness Sheridan but on their face they are.

Second, Your Honor, the subsequent type of the notes clearly are not contemporaneous by any manner of means.

Now, the thing that Mr.—, I don't know why Mr. Sheridan took cryptic notes. I assume that there was a situation in which he couldn't sit down at a writing table and [fol. 3439] write out all that was said and make it substantially verbatim, I think that fairly well speaks for itself, too.

So, I don't know anything about the notes of Mr. Sheridan but the rule Mr. Silets would require would say that the Jencks law means that the government must take statements in order to be able to turn over what statements it has taken. Certainly that is not the rule.

We will turn the statements back over to the Judge with a memorandum of law on this point, I mean the notes back over to the Judge.

The Court: Yes, I will want to review them.

Mr. Neal: But I think for the reasons stated here they are clearly not Jencks material.

The Court: Well, all right. Well, the Court wants to reserve action at this time on Mr. Silets' request for additional instructions to the jury, for the request of the defendants relating to the document that has just been sealed as Exhibit No. 111 and the request just made on behalf of the defendants regarding the notes of Mr. Sheridan.

Mr. Branstetter: May it please the Court, I am sure that the Court is considering that all of the defendants are requesting this information in reference to that.

The Court: Yes.

Mr. Branstetter: And further I think it must be of some help to the Court to look and see that the so-called Jencks [fol. 3440] statements handed us from the sealed envelope states that the incident or the matters therein occurred on November the 7th, 1962, and all the evidence up to this point, both from Mr. Sheridan and the one making the affidavit here, showed that this was reported to Mr. Sheridan daily, so if there was an intentional failure on the part of Mr. Sheridan to keep the notes in such form as to fail to turn them over to defense counsel at the appropriate time then all the evidence of this witness must be excluded and we so move.

Mr. Schiffer: On behalf of all the defendants.

Mr. Haggerty: Your Honor, may I ask that you reserve decision in reference to the happenings at the secret session until I have an opportunity to examine the transcript of the first secret session and call to Your Honor a matter that I consider is vital to Mr. Hoffa.

The Court: All right, Mr. Haggerty.

Mr. Silets: Your Honor, there's one other proposition that I might point out to the Court, the issue of the bad faith on the part of the government, vis-a-vis, Jencks statements, has been brought to the attention of the Supreme Court and I believe certiorari has been granted and they are going to consider it in the case of Marco Genevese, I am sorry, I am told it was remanded from the Supreme

Court to the Second Circuit to consider the proposition and I assume it will get back to the Supreme Court.

[fol. 3441] Mr. Berke: If Your Honor please, just briefly as the Court reflects upon this question, which is material to the defendants in this case, I would like to point out the fact that the Court has overruled the defendants motion to suppress the evidence. I know the courts give wide latitude in cross examination but the purpose of the Jencks act is to give the defendants an opportunity from the notes taken by the government agents in order that they can properly proceed to the truth of the matter.

Now, Mr. Sheridan said that he took just a single word and from that he transcribed a whole record. First of all, we don't know that he has done that and we doubt seriously that one word would lead to a whole statement.

In any event, he did testify, the Court will recall, that it was substantially what the man told him, that he didn't add to his statement or didn't detract from it but he just reported in a longer statement substantially what this witness had said.

Now, if there is any discretion in this matter, which apparently the Court has in its discretion given the District Court some discretion in the matter, that is not discretion to keep the statements completely away from the defendants when they should be made available to them, but if any discretion is used, and this is what I'm trying to get to the Court, in order to give the defendant the fair trial [fol. 3442] in view of the fact that the Court has seen under the circumstances under which this witness was brought here that any discretion should be stretched in favor of the defendants in order to guarantee a fair trial because there can be no prejudice to the government in the case, if whatever the government gives will elicit truthful information then that will be in keeping with the guarantee of a fair trial under the due process of the constitution, whereas, if the Court takes that discretion and decides it against the defendants it will be again taking the discretion which

the Court used in the motions to suppress and again suppress evidence which we think, at least since the Court has ruled in favor of the government on the motion to suppress, and in order to give us an opportunity where you might say we were caught by surprise, that there can be no prejudice to the government and that it should be given to the defendants, so if there is any discretion in that we urge that the Court give the defendants a full opportunity to develop the defense in this case.

Of course, we know the Court will give us wide latitude on cross examination but that is not the point, it's the Jencks statements that give us the opportunity to make further searching questions of this witness.

[fol. 3443] The Court: All right.

Mr. Haggerty: One more question, your Honor. One more matter, and that is with reference to surveillance of defense counsel.

The Court: I didn't understand your first statement.

Mr. Haggerty: It is in reference to surveillance of defense counsel and the defendants. I have heard Mr. Neal rise to his feet many times and say that he had no knowledge that there was any surveillance. It is not disclosed at least at the date of the filing of this affidavit of Edward Grady Partin at Nashville, Mr. Neal was thoroughly acquainted with the fact that there was surveillance, surveillance of the most effective type by the planting, volunteer or otherwise, the government accepted it, this man Partin, within the confidence, you might say, of the defendant and to a certain extent some of the defendant's lawyers with a full opportunity to spy and surveil.

Now, in a report to a representative of the Federal Government who actually was in charge, overall charge of this prosecution in Nashville, and I am speaking of Mr. Walter Sheridan, now Mr. Neal represented to the Court then and he has represented since many times, he knows nothing about surveillance.

Now, I hate to doubt Mr. Neal's word, but I have a feel-

[fol. 3444] ing, I cannot prove it as yet, but I have a feeling

this is not that same type of surveillance, but a full surveillance is being carried on and I am only speaking for myself and my client and I would like to know and I would like to know of someone in authority, I would like to have someone in authority say, evidently Mr. Neal is either forgetful or he hasn't the authority or the knowledge, as to know if the surveillance is being carried on at the present time, because I am reasonably certain that it is.

The Court: All right, Mr. Haggerty, would you have any authority to cite to the Court as to the Court's proper function in this situation?

Mr. Haggerty: I can seek protection of the Court.

The Court: All right, it would be helpful if you do have and can cite to the Court some case or authority as to just what you deem should be done in this respect.

Mr. Haggerty: I think the Court can, and I will attempt to find the exact authority tonight, I think the Court can enter an order directing the government and its agencies to not surveil or interfere with the defendant and his counsel.

The Court: Very well, I will reserve and if you will, please get the authority for me.

Mr. Berke: I would like to remind the Court that this [fol. 3445] matter has been brought to the Court's attention. It was brought to the Court's attention at the pretrial conference. We stated there flatly that counsel and defendants were being surveiled. Mr. Neal says that is not true. I personally told Mr. Reddy of an incident where I have been surveiled. And Mr. Neal got up and stated that that is not true and we asked for the protection of the Court and the Court said it would take it under advisement. We have never gotten a ruling from the Court on it.

[fol. 3446] The Court: If you will, gentlemen, if you will get me the authority as to what the Court, what authority the Court has in that situation and what would be appropriate instructions?

Mr. Reddy: Mr. Berke did mention to me something about an incident that happened over in the Volunteer

Garage and I made inquiry about it and it was just an incident. It was a happenstance that a car happened to be there when he was pulling out.

Mr. Berke: That is not it. I told you more than that.

Mr. Reddy: I have no information about you being surveilled.

Mr. Berke: I know you don't.

Mr. Neal: Your Honor, let me say one thing here, you remember that the defendant—Mr. Maher, my good friend Mr. Maher over here, in the last trial testified on direct examination about this great surveillance that was conducted on him, and on cross examination he admitted that what he considered this surveillance was the fact that there were FBI agent, there was an FBI agent who was eating at the same restaurant near the courthouse with them and if my memory doesn't deceive me he admitted that he believed the FBI agent was there first.

Mr. Haggerty: Mr. Neal, would you like to add the un-
[fol. 3447] dercover agent who was surveilling, too?

Mr. Berke: If your Honor please—

Mr. Haggerty: (Interposing) That should make you grin. You do feel guilty in it.

Mr. Berke: Your Honor, you will have to admit I have gotten on my feet less than the other attorneys. Does Mr. Neal now state that we are not under surveillance? I would like to know? Because it is not a comfortable feeling to have cars following you everywhere you go and I'm satisfied that I have been surveilled, if your Honor please.

Mr. Neal: We don't need an order, your Honor, from the Court. I think I have some authority. I have said that there would be no surveillance of defendants and their counsel. I don't think that is being conducted. Certainly if it is, it is not to my knowledge.

Mr. Berke: That is all I can say.

Mr. Haggerty: Have you authority over the Federal Bureau of Investigation?

Mr. Neal: Do you have any authority over there?

Mr. Haggerty: Yes, Mr. Lewin.

Mr. Neal: Well, I quit the field.

The Court: Well, gentlemen, the thing that would be most helpful to the Court at this particular time is what authority, what information the Court needs to act upon and what action the Court can take.

[fol. 3448] Mr. Alexander: May it please your Honor, one last matter, in order that the ends of justice might be met I think it would be most advantageous to the defendants if we could call upon the government and I am sure they are interested in a fair trial also, to furnish us with a copy of the FBI criminal report of Mr. Partin. I am confident they have that in their files and I think we should be entitled to that.

Mr. Neal: Your Honor, that matter does present this problem, we have presented pursuant to our obligation to do so, pursuant to the Sixth Circuit case, the only felony conviction against this man, brought it out, was while he was a juvenile he went to the reformatory. No other criminal record is admissible on cross examination against this man, your Honor, and the government in seeking a fair trial is going to respectfully insist that the cross examination be so limited. We have cited numerous Sixth Circuit cases that provide that prior acts of misconduct, prior charges, do not amount, are not proper cross examination and I can point out, your Honor, how fair this is.

There are a number of defendants in here who have had prior charges against them. And one defendant is very vociferous in his claim that prior charges don't mean anything.

Mr. Berke: This is not a defendant, your Honor.

[fol. 3449] Mr. Neal: It doesn't make any difference. The Sixth Circuit is clear on that, your Honor, and we have cited case after case. Now, we have presented pursuant to our obligation the only felony conviction against this man. It is unfair because even upon the stand here, your Honor, Mr. Schiffer brought out the kidnapping charge that was

dismissed, some children of a neighbor or something involved that he brought it out. It is out.

Mr. Schiffer: Well, of course, I assume that when I charged him with kidnapping that if he bought off the sheriff to dismiss the charge I will be able to bring that out, too? Will you assist me, Mr. Neal, in bringing out the truth of the kidnapping of the children, it is still kidnapping.

[fol. 3450] Mr. Branstetter: May it please the Court, we are considerably past the normal adjournment time. A number of counsel, at least one counsel in this cause, myself, I try to make arrangements to call my office or to make some semblance of conducting a part of a law practice separate and apart from this and it's becoming totally impossible, not only from the standpoint of making communication but also to physically fight this sort of thing. I think it's unfair to counsel to be required to stay here this long.

The Court: Well, now, gentlemen, I haven't required you to stay at all. The Court was ready to recess.

Mr. Branstetter: I agree, may it please the Court. I did not mean to infer that the Court held us this evening, but this past evening I think we were forced to.

The Court: I was ready to adjourn sometime ago and I am ready to adjourn now.

(Thereupon, at 4:55 o'clock, p.m., court was adjourned until 9:00 o'clock, a.m., February 6th, 1964.)

[fol. 3452] February 6, 1964

Mr. Branstetter: May it please the Court, in reference to the notes, memoranda, and other matters that were handed to the Court that Mr. Sheridan stated on the witness stand on the motion to suppress that he had made, and I understand later on he stated that he had made [fol. 3453] summaries of these total notes, now, in order that the record will be clear, the motion in that respect was twofold.

One, we asked when Mr. Sheridan was on the stand to see those notes under the Jencks Act as a proper method of cross examination. That is the first part of the motion.

Secondly, we asked separate and apart, totally separate and apart from the Jencks Act, to see the statements and memoranda submitted to the Court by counsel as a matter of the government being required and the burden of proof resting upon the government to establish that no illegally-obtained evidence was or would be admitted.

The Court: All right.

Mr. Branstetter: And now the matter before the Court with this particular Witness Partin, of course, would deal primarily with the Jencks Act and the reference to requesting the Court on the motion to suppress to look at these notes and memoranda, as stated, went twofold, both the Jencks Act and the burden upon the government to establish that the information was not secured in an unlawful method.

The Court: All right. Gentlemen, with regard to the motion on behalf of Mr. Dorfman for further instructions to the jury in regard to any statement of the Witness Tweel, the Court is of the opinion that the proper and appropriate instructions were given in that regard on more than one occasion and in particular, for example, on pages [fol. 3454] 3375 and 3376 of the transcript. The Court is of the opinion, therefore, that that motion should be overruled.

The motion on behalf of the defendants with regard to Exhibit No. 111, being the FBI statement, requested that it be made available to the defendants, the Court is of the opinion that that motion should be overruled.

The Court finds that there are no notes or documents of the Witness Sheridan that are in any respect statements of the Witness Partin that would be in any way subject to production under the Jencks Act. The motion, therefore, of the defendants to strike the testimony of the Witness Partin upon this ground would be overruled.

All right. Are we ready?

[fol. 3455] Mr. Haggerty: There is one matter, Your Honor, and that refers to our claim, Your Honor has ruled, but I call this to Your Honor's attention under the Jencks act it provides for voir dire. There has been no voir dire as such under the Jencks act rule in reference to these notes that were made by Mr. Sheridan, these cryptic notes, and then the enlargement upon them seven months later of the reports of the FBI predicated upon those notes.

Therefore, I ask either that we have a voir dire on the Jencks act statements or if the government will so stipulate that the voir dire that was conducted for the purpose of the motion to suppress wherein Partin was the witness, Walter Sheridan was a witness, and so forth, be construed to be a voir dire under the Jencks act.

The Court: All right. Is the government willing to stipulate that that examination of Mr. Sheridan would constitute the voir dire?

Mr. Neal: Yes, Your Honor, I assume that is what the Court was considering and that is what the government was considering.

The Court: All right. Allow the record to so show. Are we ready to proceed with the jury?

Mr. Branstetter: May it please the court, on the motion to suppress, we have on yesterday marked as an exhibit to the testimony of Mr. Buffalino a portion of the tran-

[fol. 3456] script of the proceedings in the case of United States of America versus James R. Hoffa and Commercial Carriers, Inc., Middle District of Tennessee, Criminal action No. 13241, and by inadvertence or otherwise and with reference to Mr. Maher's testimony on yesterday, I would like to introduce and I will have to produce copies, but pages 1101 through 1114 of that particular transcript. And I would ask permission of the Court at this time to be able to excerpt it and deliver to counsel and submit it as an exhibit to Mr. Maher's testimony. We would also like, may it please the Court, that the notes that were

handed to the Court insofar as Mr. Sheridan are concerned would be made a part of the record in this cause.

The Court: All right. Yes, sir.

Mr. Branstetter: In order that they may be considered if it becomes necessary or pertinent later on.

Mr. Silets: Your Honor, those notes will take a double facet, it is my understanding, one, as an exhibit to the motion to suppress and another is to consider them whether they fall under the Jencks statute.

The Court: Yes, they will be filed as a sealed exhibit and available for whatever purpose in the record may be appropriate.

Mr. Silets: May the record also show that we on behalf of the Defendant Dorfman and adopted by all other de-
[fol. 3457] fendants are adopted as an exhibit on the motion to suppress as well as under the Jencks act.

Mr. Branstetter: I would like to hand up to the reporter and have marked for identification pages 1101 through 1114 of the transcript as referred to and then other copies will be submitted.

The Court: All right, without objection allow it to be filed. The notes and documents of the witness Sheridan will be marked for identification as sealed exhibit No. 112 of the witness Sheridan.

The Clerk: Mr. Sheridan.

(The notes & documents referred to above were marked Government Exhibit No. 112, for identification only.)

Mr. Silets: Your Honor, Exhibit No. 112 is the notes of Mr. Sheridan that are offered for the motion to suppress. Am I correct?

The Court: Yes, sir.

The Clerk: No. 103, Your Honor, you're not through?

The Court: Just a minute, gentlemen, let's get the record straight.

The Clerk: No. 112 is correct.

The Court: The last previous exhibit was Exhibit No.

111, being the sealed statement of the FBI witness. This document that has just been filed as a sealed document [fol. 3458] will be Exhibit No. 113, being the notes and documents of the witness Sheridan.

Now, the pages which have been filed by Mr. Branstetter being pages 1101 through 1114 will be Exhibit No. 114. Strike what we have said. And let's get this correct.

I was correct I believe the first time. Exhibit No. 112 will be the sealed notes and documents of the witness Sheridan.

Exhibit No. 113 will be the pages filed just now by Mr. Branstetter from the transcript being pages 1101 through page 1114 of the Nashville transcript.

(The pages 1101 through 1114 referred to above were marked Government Exhibit No. 113 for identification only.)

Mr. Silets: Now that we have gotten the record right, have gotten the right numbers, may the record reflect both exhibits No. 112 and No. 113 were offered as in support of the motion to suppress?

The Court: All right.

[fol. 3459] Mr. Silets: And among other documents in support of the motion to suppress were the two documents, the sealed envelopes. May we have those considered also as exhibits in support of the motion to suppress as well as the documents contained in the envelope, the affidavit of the FBI agent? I think those are Exhibits 109, 110, 111.

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[fol. 3460] EDWARD GRADY PARTIN, a witness called at the instance of the United States of America, having been previously duly sworn, was recalled and testified further as follows:

Cross examination.

By Mr. Berke:

[fol. 3461] Q. Mr. Partin, I believe you stated you are 40 years of age, is that correct?

A. I will be 40 next month, yes, sir.

Q. What kind of work have you done in your lifetime?

A. Oh, International Paper Company, construction companies, Teamsters work.

Q. How much education have you had?

A. Well, it would amount to about a tenth grade education, I imagine.

Q. When did you complete your tenth grade education?

A. I said it would amount to it. I took a—business courses also. I said it would amount to about a tenth grade education.

Q. Well, how far in school did you go?

A. Ninth grade in school itself.

Q. What did you do after school?

A. What do you mean by what did I do?

Q. After your school work, after your ninth grade?

A. I don't know exactly what you mean. That's quite a while ago, I imagine. What did I do? I worked or what?

Q. You don't remember what kind of work you followed?

A. Well, I told you, sir, various jobs, various jobs, pipelines, construction, International Paper Company.

Q. Do you know who you worked for?

[fol. 3462] A. I believe I told you International Paper Company is one, construction companies.

Mr. Silets: Will the witness keep his voice up, please?

The Court: All right. Speak so everyone can hear, please, Mr. Partin.

The Witness: All right.

By Mr. Berke:

Q. Will you repeat that answer, please?

A. International Paper Company and various construction companies, pipelines.

Q. Do you know the names of the people that you worked for?

A. Sir, I couldn't repeat the names.

Q. But you do remember one, that is the paper company? A. I remember it in detail because all of my in-laws are employed by the International Paper Company.

Q. Were you in the service?

A. Yes, sir.

Q. What kind of discharge did you get?

Mr. Neal: Objection, your Honor.

The Court: Overruled.

A. Bad conduct.

Q. How did you get into the service, Mr. Partin?

[fol. 3463] A. I don't remember exactly how I got into the service. I had always wanted to go into the Marines.

Q. Didn't you make a deal if you would go into the service if they would drop the burglary charge?

Mr. Neal: Objection, your Honor.

The Court: Overruled.

A. I don't remember any deals being made, no, sir, I sure don't.

Q. Well, didn't you have a burglary charge pending at the time you got into the Marine Corps?

A. Not that I remember. I may have, I don't remember, I was young at that time.

Q. Do you remember having a burglary charge against you at the time you got into the Marine Corps?

A. Well, sir, when I was a kid I didn't have any home, I don't know what all I had against me. I was from place to place, just stayed—

Q. (Interposing) Do you mean that you had so many charges you can't remember that one?

A. I didn't say that.

Q. Well, now, why is it that you can't remember whether or not at the time you entered the Marine Corps that you had a burglary charge?

A. I was 16 or 17 or 18 years old, I think, I am not sure how old I was.

[fol. 3464] Q. While you were in the Marine Corps, is it another burglary charge what caused you to get a dishonorable discharge or bad conduct discharge?

A. No, sir.

Q. Didn't you have charges placed against you while you were in the uniform of the United States?

A. I don't remember the details of it, no, sir.

Q. I know you don't remember the details, but you would remember if you were placed in custody, wouldn't you?

A. Yes, sure would.

Q. Will you tell this jury whether or not you were placed in custody while you were wearing a Marine uniform?

A. I don't know if I was wearing a Marine uniform or not, sir. As I said, I was 16 or 17 years old. Whatever I did then I will be glad to admit it.

Q. You weren't 16 or 17 years old at the time you were released from the Marine Corps, were you?

A. Not when I was released. I don't remember exactly how old I was, sir. It was 20-something years ago. I don't imagine you can remember that far back in detail.

Q. Well, didn't you have more than one charge placed against you while you were in the Marine Corps?

A. No, sir.

Q. Are you sure of that?

A. To the best of my memory I did not.

[fol. 3465] Q. When did you enter the service?

A. Nineteen forty something. Nineteen forty something. I'm not positive of the year.

Q. Did you enter it on March 14, 1941? Does that sound about right?

A. That could be right. That would be about the length of time over the years, I would imagine.

Q. Now, how long were you in the service until you received your bad conduct discharge?

A. I don't remember for sure how long I was there, sir.

Q. Well, can you give us an estimate about how long you were there?

A. I would guess a year, just guessing. I don't know.

Q. Weren't you in there longer than a year?

A. I said, sir, I don't remember. I was guessing.

Q. Actually you were there up until 1943, were you not?

A. I don't think so, no, sir. I think you have the wrong information.

Q. All right, if I have the wrong information, when were you discharged?

A. I said, sir, I don't remember exactly when I was discharged. That was a long time ago.

[fol. 3466] Q. Where is your bad discharge?

A. Where is my what?

Q. Where is it? You received it, didn't you?

A. Yes, sir, I would imagine I received it.

Q. What did you do with it?

A. Well, I wouldn't remember where it is over that length of time, sir.

Q. Were you ever in Bremerton, Washington?

A. That is where I was in the Marines when I was discharged, sir.

Q. Were you ever arrested in Bremerton, Washington, while you were in the Marine Corps?

A. I would imagine that is the time you are talking about on that. I would guess in the Marines.

Q. Well, now, will you please tell the jury what you were arrested for?

A. It was some petty charge. I don't remember. I just don't remember. No serious offense. I don't remember exactly what it was. I will be glad—

Q. (Interposing) Let's get to a little more serious

charge, what about in September 1941 while you were still in the Marine Corps at Roseburg, Oregon, now you surely remember that, don't you?

A. No, sir, I don't remember that.

Q. Were you in Roseburg, Oregon?

[fol. 3467] A. If I was there, I don't know the name of the place as far as knowing.

Q. You were in Oregon, weren't you?

A. I would have to come through Oregon to come home.

Q. Didn't you, don't you remember while you were in uniform on September 1, 1941, you were arrested for robbery and auto theft?

A. No, sir. You have your information wrong. Better check it again.

Q. You say you want me to check that again?

A. Yes, sir, I would if I was you.

Q. Is that the wrong charge?

A. You have the wrong place of events and times, I think, because I—

Q. (Interposing) All right, where was the place of events?

A. You are the one telling me about it. I don't know.

Q. Weren't you arrested in Roseburg, Washington, and you were released to the Siskiyou County, California, authorities because that is where the offense was committed?

A. I don't remember the details. As I said, sir, that was a long time ago.

Q. Does California strike you as the right place where you were finally transferred to when you were in the Marine Corps?

[fol. 3468] A. Sir, you better get your information straight. I was never transferred to California.

Q. Well, were you kept in Oregon?

A. What do you mean kept in Oregon?

Q. When you were arrested? Were you kept there or were you transferred to another jurisdiction?

A. When I left the Marines, sir, I went to Natchez, Mississippi.

Q. You didn't leave the Marines in 1941, did you?

A. You were telling me when I left. I told you I didn't know.

Q. Well, you said that you went in the Marine Corps in March 1941 and this is only less than six months later?

A. No, sir, you said that.

Q. Well, am I wrong?

A. I don't know whether you are wrong or not, sir.

Q. Well, did you state that you thought you were in the Marine Corps at least a year?

A. I said approximately. I was guessing.

Q. When did you come back to Baton Rouge after you received your bad conduct discharge?

A. Sir, I don't remember. I was between Baton Rouge and Natchez, Mississippi.

Q. Well, what prompted you to get this bad conduct discharge if it wasn't the arrest and the troubles that you got [fol. 3469] into while you were in the Marine Corps?

A. Well, I think that I would have got it for several reasons because they had accused me of fraudulent enlistment because of my age and not having my parents' consent also.

Q. Also to what?

A. Along with what you are telling me.

Q. In other words, in addition to the things that I am telling you about, you say that a fraudulent giving of your age was the cause of your discharge?

A. No, sir, I did not. You said that. I said they accused me of it.

Q. Do you know of anybody that ever got a bad discharge because they enlisted in the service prior to a legal age?

A. Yes.

Mr. Neal: Objection, your Honor.

[fol. 3470] The Court: He answered. Proceed.

Mr. Berke: All right.

By Mr. Berke:

Q. Now, when you came back to Baton Rouge what kind of work did you do?

A. Sir, it would have been on construction I imagine. It's hard to remember twenty-something or maybe thirty years, I don't know.

Q. You wouldn't be forgetful about the different troubles you got into, would you?

A. Oh, yes, sir, because, as I said, I didn't even have a home. I was living from place to place wherever I could hang my hat or stay, so it would be easy to forget some of the details of it.

Q. In other words, you say because you didn't have a home it would be easy for you to forget such important things as being put in jail or getting in trouble with the law constantly?

A. Yes, sir, because I remember the times I have had to steal bread and milk to eat from off the front of the doorsteps when I was a minor and when I was a child and wash my clothes in service stations and in the side, you know, where you go in, so the events would be very faint to me because that's something that I would like to forget that long.

[fol. 3471] Q. Now, you remember stealing when you were a little child but when you got in the Marine Corps you don't remember the stealing, do you?

A. I didn't say I didn't remember. I said it was something along there, those lines you said I didn't remember.

Q. I said you didn't remember.

A. That's what you told me.

Q. No, I thought you said you didn't remember.

A. I said I couldn't remember the details, sir.

Q. You couldn't remember the details. But you know it was—, there was some stealing, didn't you?

A. I am sure it was, I think so.

Q. Yes, sir. Now, how was it that you can remember what you did when you were a little child when you were

stealing, you say to have something to eat, and you can't remember about the stealing when you became an adult.

A. When I became an adult? You have your times mixed up, sir. I came from the Marine Corps to Baton Rouge.

Q. When were you born?

A. 1924.

Q. All right, sir. When you got back to Baton Rouge, Louisiana, within just a matter of weeks you got into trouble again for stealing, didn't you?

A. I don't remember that, sir, I certainly don't.

Q. I beg your pardon?

[fol. 3472] A. I was—, I don't remember because if I was I was never tried for it or anything like that, I don't remember.

Q. You mean on things you weren't tried for you just don't remember?

A. I would imagine nothing to them or I would have—

Mr. Neal: (Interposing) Is counsel allowed to go into examination here of charges he is saying that were brought and never tried for?

Mr. Berke: If Your Honor please, this is a serious matter, if Your Honor please. We want to test this man's credibility. We think we are entitled to go into these things to show his bias and his prejudice.

The Court: Well.

Mr. Berke: We think we are entitled to wide latitude on cross-examination of this witness under all of the circumstances that the court is familiar with.

Mr. Neal: Your Honor, this Court has instructed this jury time and time again and rightfully so that indictments, an indictment is not evidence, that that does not mean you are guilty, that is for a jury of your peers to determine.

Now, withstanding that charge to this jury, this counsel here who requested that charge, this is the very man who requested that charge to this jury says, "Your Honor, charge this—

Mr. Brown: (Interposing) Your Honor, on behalf of [fol. 3473] the defendant—

Mr. Neal: (Interposing) May I finish?

Mr. Brown: No. I make my objection to the speech. I ask that the jury be excused if Mr. Neal is going to make a speech.

The Court: Well, gentlemen—

Mr. Neal: Your Honor, may I finish my objection? I don't want to—

The Court: (Interposing) State your objection.

Mr. Neal: I just wanted to state Mr. Berke is the very man who called for Your Honor to instruct this jury that a charge doesn't mean guilt and now he is, by cross examining—

Mr. Haggerty: (Interposing) May it please the Court—

The Court: Just a moment, gentlemen. I want to give the defendants the right to broad examination. Ordinarily a matter of charges as distinguished from convictions are not proper items for cross examination. I'm going to overrule, though, and let the witness answer.

Mr. Neal: Very well, Your Honor. May we determine then the times and places and disposition if the witness knows? This insinuation of charges of some vague remote past when he was sixteen or seventeen and then dropping it so we don't know.

[fol. 3474] Mr. Haggerty: I object to the government making this argument then in front of the jury.

The Court: Let's proceed with the examination.

By Mr. Berke:

Q. Well, Mr. Neal would like to have the times and places and I will help you with that. On May 7th, 1942, weren't you placed in jail and that was shortly after you got out of the Marines and in Baton Rouge, Louisiana, on or about the time you were in the Marine Corps?

A. Sir?

Q. At Baton Rouge, Louisiana, for larceny?

A. Sir, if I knew I would tell the jury because I am not ashamed of my past because I lived it down. I would be happy to look them in the face. I don't remember it and if I did I would tell you so. I—

Q. You say that you are not ashamed of things you did way back then some twenty years ago?

A. No, sir, because I believe that is what they build churches for, to repent of your sins, I believe so.

Q. All right. So then after 1942 you decided then when you did become a little more mature that you were going to lead a straight and narrow path and be a good citizen, try to be?

A. Sir, the way I remember you talking about the times, I remember that the attorney general of Louisiana wrote [fol. 3475] a letter to the place that I got in trouble and said I had been a model citizen for a period of seventeen years, I believe he said, and I was a family man, well thought of, along with a letter from the Sheriff Department, where the Congressman, the Senator and so forth, wanting to vendict me for my past, which they did. I have a full pardon for the one that you are speaking of, a full restoration of citizenship. I didn't have one child I have now when any charges that I had gotten in trouble for back then was—, since I was married and have my children until I met Mr. Hoffa I never had another charge put against me.

Q. All right. Let's see about that. When did you get married?

A. Well, my children, my oldest one is about eleven now, and I was married two or three years before that, before I got married, I mean I was married two or three years before I had a child, so I am just guessing approximately, I would say fifteen years or maybe sixteen.

Q. Now, you say that you had been pardoned or forgiven for this Baton Rouge thing, is that what you said?

A. I didn't say that. The only time I served a jail sentence for felony I said I had a full pardon in the eyes of God and in the eyes of the law, but evidently not in your eyes.

Q. Now, Mr. Partin, I am not going to get into a quarrel [fol. 3476] with you, I am just going to ask you the questions and I expect you to answer.

A. Sure, I will be happy to answer them, sir.

Q. Now, after you got out of this larceny thing and were permitted—, now, just a minute, let me finish the question.

A. O. K.

Q. Didn't you go back to the state of Washington?

A. Sir?

Q. And weren't you then picked up again in Washington while you were still in the Marine Corps?

A. Sir, I didn't say I'd ever been into the larceny thing as you said.

Q. All right.

A. We take for granted what you say may be true.

Q. Well, that's what you got into in Baton Rouge before you got back out of the Marines?

A. I don't know for sure what you are speaking of. I know I had never been tried and sentenced for a felony in Baton Rouge.

[fol. 3477] Q. What about Mr. Maher? Is that living a model citizen just because you weren't convicted of another felony, is that what you are trying to lead this jury to believe?

The Court: That is argumentative, Mr. Berke.

The Witness: Sir?

By Mr. Berke:

Q. You are talking about felonies, right?

A. Well, we are talking about any serious offense I would be placed in jail, I would imagine.

Q. You say you had never been placed in jail since that felony charge?

A. I did not say that, sir. You said it.

Q. Well, I am asking you.

A. Yes, sir, I have been placed in jail several times.

About, I would guess, 60 per cent of the time since I have been over with Mr. Hoffa.

Q. When were you last out at the West Coast before you returned to the southern climate here?

A. I believe I told the ladies and gentlemen on the jury yesterday about that. That is the one he is speaking of. The one I told you people of. I believe they already know.

Q. As a matter of fact, weren't you there on January 10, 1944?

A. I believe you have me in the Marines, sir.

[fol. 3478] Q. Isn't that the charge which you went to the penitentiary on that you told Mr. Hooker about?

A. I didn't say I went to the penitentiary. I said I went to the reformatory school.

Q. All right. What kind of sentence did you get?

A. I believe it was three years that I stayed there. I believe, I am not positive of that.

Q. Now, Mr. Partin, I didn't ask you that. I asked you what kind of sentence you got to see how your memory is about that.

A. It was changed twice. I don't remember exactly because it was changed.

Q. Well, I am testing your memory now. You say you knew how long you served. What kind of sentence did you get?

A. I don't remember the details of it, sir. It has been quite a while.

Q. Well, you were 20 years of age then?

A. No, sir, I wasn't 20 years of age then. You have something more wrong. Wrong information.

Q. Well, January 10, 1944, weren't you 20 years of age?

A. I believe that would make me 19.

Q. Well, when would you have become 20?

A. Next month.

Q. February. So, you are 19 years and 11 months?

[fol. 3479] A. Still a minor.

Q. And you got a 15-sentence, does that refresh your memory?

A. No, sir, it wasn't. It was changed to that later. It was not.

Q. It was changed to that later?

A. Yes, sir.

Q. Was it more than that?

A. If I could qualify my answer I could answer you.

Q. Answer it any way you want to.

A. Yes, sir, because if my mother and father would have came and got me I wouldn't have been there. They weren't there waiting for me and wouldn't come get me and I wouldn't have went to the penitentiary. So it happened I didn't have a mother and father to come get me so they had to put me somewhere.

Q. Mr. Partin, don't you know that your mother and father didn't get you, that you escaped from the reformatory?

A. Then? No, sir.

Q. Then? Well, did you escape from the reformatory?

A. I think I walked off once, yes, sir.

Q. You walked off, you didn't escape, you just walked off. Is that right?

A. I don't remember because I wasn't given time for it evidently.

[fol. 3480] Q. Do you mean because you weren't given time for it you don't remember it?

A. I don't think so, no, sir. I wouldn't.

Q. But you do remember walking off from the reformatory?

A. I believe I do, yes, sir.

Q. Is that the only time that you had escaped from any institution where you were confined?

A. I didn't ever say I was confined to another one and certainly I don't remember escaping from another one or being in another institution.

Q. You don't remember being confined in any prison or any workhouse or any jail?

A. Since that time, no, sir, being confined for sentence, no, sir.

Q. Well, let's see, in 1954 how old would you have been? You would have been 30 years of age then, wouldn't you? Thirty?

A. I believe so. I would guess just what you said.

Q. Would that, in your opinion, be time enough to have been a matured and been a grown-up man?

A. I would imagine I was, sir.

Q. Now, in 1948 what age would you have been?

A. I would have to figure, sir. I'm not that bright that I can remember right offhand. I would have to figure.

[fol. 3481] Q. Well, you remembered it pretty good yesterday about all the events that took place in October, November and December, in great detail, didn't you?

A. Well, it would be a little bit fresher than something 15 years ago. Ten years ago. Or 20 years ago.

Q. All right, we will get to some of those. What about in 1948, do you remember getting into trouble in 1948?

A. Not offhand, no, sir, I don't.

Q. Did you get into real serious trouble something that you would remember, Mr. Partin?

A. Well, I don't imagine it would have been too serious or I would have been in the penitentiary.

Q. Would you consider rape and robbery, two different offenses on the same day as a serious matter?

A. If I wasn't guilty I wouldn't remember them, no, sir.

Q. Weren't you charged with raping a colored girl in Mississippi?

The Court: Now, gentlemen, if you have convictions of those matters I will allow you to ask about them. The purpose of this is not to degrade anybody by making unsupported charges. If you have matters that relate to convictions that would in any way reflect upon the credibility of this defendant, it would only be admissible in that respect. I will allow you to do so, but not just to by [fol. 3482] unsupported charges to attempt to degrade someone.

Mr. Neal: We brought out on yesterday, felony convictions of this man yesterday that we are required to do by

law and there are plenty of cases that say that this kind of cross examination is not proper as your Honor just mentioned.

Mr. Berke: Your Honor, in addition to that, I am testing this man's memory.

The Court: Well, let's not test his memory by unsupported charges. If you have record of convictions you may ask him about such matters.

By Mr. Berke:

Q. Do you remember the event?

A. It seems that I remember something about it, yes, sir. But as I said, I may have been accused of something but I wasn't guilty evidently so it wouldn't bear on my mind continuously like I was guilty.

Q. Well, Mr. Partin, you remember being arrested and questioned about it, don't you, doesn't that place it indelibly in your mind, sir?

Mr. Neal: Your Honor, I don't want to, if your Honor wants to and you are going to permit this, I don't want to object about it, but I thought that your Honor had said that these unsubstantiated charges would not be proper cross examination.

[fol. 3483] Mr. Berke: If your Honor please, I am going into his memory compared to what he went over with Mr. Hooker. We think this is competent and I am not going to go into the actual exact facts as your Honor asked me not to. I'm going to respect the Court's decision on that matter, but I think as to the convenience of this man's memory on things against him and I think we would like to go into that, your Honor.

The Court: Well, allow it for that very limited purpose.

The Witness: What did you say, sir?

By Mr. Berke:

Q. Don't you remember being questioned extensively something that would be indelibly impressed on your mind

about these matters about which I just now talked about, two serious charges?

A. Well, sir, I would imagine I would try to forget them as fast as I could because of my children I wouldn't want to let them know it and I imagine you would, too. So, even, if you will let me finish?

Q. Sure.

A. Even if there had been something that had been something to even if I had been convicted of something when I had five children and my family there I would have tried to keep back in my mind certainly when I went into the churches, done church work, other work like that, I [fol. 3484] didn't think—and I never did hear the minister of the church ask me from the pulpit were you ever accused. I never did hear that.

Q. All right, sir. To get back to the question now, do you recall being questioned extensively about this serious charge and also about the robbery charge which happened on the same day, do you remember it?

A. I don't remember any details at all about things like that. As I say, as far as the details that was a long time ago. If you will ask me something that happened last October, I think I can pretty well answer you.

[fol. 3485] Q. I will get to that, sir.

A. Okay.

Q. But I am asking you about this now. You say your memory don't go back that far.

A. Not in detail. I have answered you three times, sir.

Q. All right. Now, you told the Court and the jury here that the only time you escaped was from this burglary charge which you ultimately served three years and that was the only escape that you had?

A. I didn't even remember that in detail I said but if I did that's the only one I know of.

Q. I see. You wouldn't forget a little thing like running away from a jail, would you?

A. I certainly would not.

Q. All right. I will ask you if on August 20th, 1943, if you weren't placed in jail on a criminal charge and that you escaped from that jail and that you got a sentence, both for the escape and for the charge that you were put in jail on?

A. I certainly don't remember it, sir.

Q. You don't remember it?

A. I certainly don't.

Q. So that has slipped your memory?

A. I don't think it slipped my memory, I think you are mistaken on what you have.

[fol. 3486] Q. All right. Were you ever in Vancouver, Washington?

A. Yes, sir, I believe so. That's the same charge that you have spoken to and I have told the jury about yesterday that you have talked about all morning, that is the identical same charge that he is speaking of.

Q. Now, sir, we are not talking to you about the charge from Bremerton, Washington, Roseburg, Oregon, and not the Vancouver, Washington—am I not talking about two different charges?

A. You are not talking about two different charges when you say I was confined to the reformatory, you are speaking of the same charge, sir, you are trying to make it look like two or three different charges.

Q. Well, in August, 1943, you hadn't yet been convicted on this burglary charge, your burglary conviction didn't come in until January 10th, 1944?

A. That is where your notes are mixed up, sir. You had me in the Marine Corps two years longer than I was.

Q. All right. Now that you know, when were you in the Marine Corps?

A. I answered you once, three times or four times, I said approximately a year. Approximately, I didn't know.

Q. What year? You say now I am wrong and you are right. What year was it?

A. I didn't say to the best of my memory and you told [fol. 3487] me what year, I didn't tell you.

Q. Well, you tell us.

A. I said I didn't remember exactly what.

Q. You didn't deny that the years that I mentioned to you were correct, did you?

A. I didn't say they were correct, either.

Q. While you were in the Marine Corps didn't you have occasion to come home and then go back to the Marine Corps?

A. No, sir, I certainly didn't. I certainly did not, so you are all mixed up.

Q. You are telling us now in 1942 you didn't go back to Baton Rouge, Louisiana, where you got in trouble and then went back out to the West Coast?

A. I didn't say I got in trouble in Baton Rouge, you said so.

Q. All right, I said so. Do you deny it?

A. Do I deny what, now? What now, going back?

Q. That you got in trouble in Baton Rouge, Louisiana, Case No. 15783?

A. I don't remember it, no, sir.

Q. You don't remember that. All right, sir. You said that in 19— after you got out of the Marine Corps you tried to lead a model life, the life of a model citizen?

A. You said that, sir, that's what, you put words in [fol. 3488] my mouth.

Q. I am sorry, sir. I thought you said it.

A. I said—

Q. (Interposing) I apologize to you.

A. I said for the last 15 or 20 years, especially since I was married, that I led a model life, I didn't say I tried. I attended church, I went to school functions, I was on different committees in my hometown, even to the Attorney General writing and asking I be restored to full citizenship because of being a model citizen, that's exactly what I told you.

Q. You are trying to take care of your family?

A. Sure do, sure do.

Q. And you did that all of your married life?

A. Sure have, as far as the best I could do, I certainly have.

Q. On October 16th, 1954, you were arrested for non-support of your wife and your little children, weren't you?

A. No, sir.

Q. You deny that?

A. I certainly do.

Q. In Baton Rouge, Louisiana?

A. I certainly do.

Q. Case No. 37992?

A. I certainly do.

[fol. 3489] Q. All right. I believe that you also told the jury that since that time you had never spent any time in any institution or any jail or anything like that?

Mr. Neal: Your Honor, I object to misquoting the evidence. I distinctly remember what this man said. He said he had never been in jail as the result of any conviction.

Mr. Berke: He said he lived a model life and we will get into that and it will be a conviction, Mr. Neal.

The Court: Proceed.

By Mr. Berke:

Q. Now, let's get down to more recent times. In 1955 didn't you, sir, serve a 30-day imprisonment in Baton Rouge?

A. You got one on me, sir. I don't remember. I must —I must have been asleep.

Q. You don't remember assaulting one A. J. Colotta and you received a 30-day sentence for it?

A. If I may say—your Honor, he—no, sir, I did not serve a 30-day sentence for it and I would appreciate—nothing, though, I can't—I did not, I certainly did not.

Q. What did you get?

A. I didn't say I got anything, you said it.

Q. Well, were you convicted of that?

A. I certainly was not.

Q. You paid no fines?

[fol. 3490] A. I imagine that on fighting, street fighting or something I may have paid several fines, I am not sure of that. Being in the business I was in you had to fight or get put under trusteeship.

Q. All right. In other words, this 25-dollar fine or 30 days, whatever sentence you got, it didn't impress itself on your mind at all?

A. It didn't happen, I didn't serve 30 days so it certainly wouldn't impress my mind.

Q. Well, do you remember Mr. A. J. Colotta?

A. The name is familiar, yes, sir.

Q. Well, what is it familiar with reference to what?

A. I would imagine if it had been in that time it would be in reference to some organization Mr. Hoffa had us doing, so it's so many of them involved that I wouldn't know. You could ask him probably and find better in detail what we was organizing at that time.

Q. So you say that everything that you got into since 19—since you got out of the reformatory was of a minor nature?

A. It evidently was, sir, I didn't serve time for it.

Q. You still have a bunch of cases pending that you are very much interested in and trying to get some help from either the state of Louisiana or the United States Government?

[fol. 3491] A. Sir?

Q. Don't you?

A. I am not interested in getting help. If I got a charge against me all I am interested in is a fair trial. I don't ask for any help, just ask for a fair trial.

Q. Well, haven't you been getting some help?

A. I don't know how you would say that, sir. I'd hate to say when, if they have been giving me help—I will put it this way, I'd hate for them not to give me help.

Q. All right, let's see now. In October, 1961, October 24th to be exact, you were indicted for forgery and the state of Louisiana hasn't yet brought that case to trial?

A. That is the same charge, sir, on withdrawal card that Mr. Hoffa sent Mr. Buffalino down to Baton Rouge on or New Orleans on and told Mr. Williams, Bennett Williams, to check it and they said there was nothing to it, it was a withdrawal card issued daily by the dozens of the local union.

That was not forgery of anyone for any money or anything, it was a document of the International. Their own attorneys is the one that said there is nothing to it, they handled it, they know more about it than I do.

Q. Well, weren't you indicted for forgery by the Grand Jury? Don't you know Mr. Hoffa doesn't have anything to do with the Grand Jury of Baton Rouge, Louisiana?

A. He had enough to do with that charge he sent Mr. [fol. 3492] Buffalino in a secret meeting in New Orleans to check and said there wasn't anything to it.

Q. All right. Were you indicted in Baton Rouge, Louisiana, for forgery? Can you answer this, sir?

A. Not forgery of a person's name, no, of a withdrawal card by the Senate group that was opposed to Mr. Hoffa.

Q. Well, wasn't it a forgery of a man's name?

A. No, sir, it wasn't.

Q. Didn't you forge Mr. Frank Doughty (spelling) D-o-u-g-h-t-y, forge his name to a card?

A. No, sir.

Q. Wasn't that what the charge was?

A. No, sir, it was for forgery of a document, reported to be a withdrawal card of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers.

Q. What was the forgery then if it wasn't Frank Doughty's name?

A. It was a member of a group that was opposed to Mr. Hoffa who Mr. Hoffa had sent into Baton Rouge on the charge that he had filed against me under Mr. Hoffa's instruction.

Under the Constitution it says—and may I quote to the jury, your Honor, what it says so they will understand?

[fol. 3493] Mr. Berke: I think, if your Honor please, he's

just rambling on. If he would just—I don't want to cut him off but I think if the Court would ask him to respond to the question.

Mr. Neal: The questions are improper. But we think he should be entitled to explain them anyway if the Court is going to let him go into these charges.

The Court: You may explain.

A. The withdrawal card is something the Constitution says if the person isn't working at the trade he must be issued a withdrawal card, you don't have any alternative. The Constitution says you must issue the person a withdrawal card; under the instructions of Mr. Hoffa this fellow had been going to the Justice Department evidently, somewhere with the government, the government trying to get me because I was a Mr. Hoffa man. The withdrawal card we issued was issued to a Mr. Frank Doughty under the instructions of the executive board, not my instructions. I have the minutes of the meeting that I can produce with the executive board of the local union ordered me to issue the withdrawal card to this individual.

We issued the withdrawal card under the sanction of the International.

The Court: I believe you are—

Mr. Berke: (Interposing) If your Honor please, if he [fol. 3494] is going into that I'd like to go into some of these other matters.

The Court: Yes.

By Mr. Berke:

Q. Didn't you get a copy of the indictment and the only thing I asked you, didn't that indictment charge you with forging the name of Frank Doughty on the indictment?

A. No, sir, it charged me with forging a document, a document reportedly to be a withdrawal card bearing the name of Frank Doughty, not of forging his name.

Q. So you do know it was Frank Doughty's name who was forged as far as the indictment was concerned?

A. The indictment didn't say his name was forged, sir, you have got it there, read it.

Q. I only asked you if you remembered that that was the charge.

A. Yes, I remember that was the charge, the same one that the International cleared me on.

Q. Well, Mr. Partin, when I asked you that question why didn't you answer it yes or no?

A. Because you said—

Q. (Interposing) If you knew it was—

A. (Interposing) Could I answer?

The Court: I believe that is argumentative, Mr. Berke.

Mr. Berke: I think your Honor is correct on that.

[fol. 3495] Q. Now, shortly before these events here that took place, didn't you have an interest in trying to get out of a lot of serious trouble in order to try to do something for the United States Government whether you were right or wrong?

A. I certainly did not. I'm not interested in the United States Government favoring me. I said I asked for a fair and impartial hearing and that is all I asked for.

Q. Did you think that you had to do what you claim you did in order to get a fair trial?

A. No, sir. That was not the motive behind what I did. If you would like to know that I'll be happy to tell you.

Q. I will get to that in a few minutes, sir. I certainly plan to ask you that. Now, May, 1962 is not so far back now, is it? You asked me to come up to a little more recent time.

A. No, sir, I didn't ask you to come up to any times. You can come up to any times you want.

Q. You said ask me about something more recent and I am being more specific.

A. That's correct.

Q. In May, 1962 you got in trouble for kidnapping which is a non-bailable offense, that's right, isn't it?

A. If I can qualify the answer, yes, sir.

Q. Well, answer that first yes or no.

[fol. 3496] A. I said, Yes, sir, didn't I?

Q. All right. Now—

Mr. Neal: Just a moment, he said he wanted to explain.

The Court: Yes, sir, permit him to explain.

Mr. Berke: If I can ask him one more question and I think it will clear this up.

Mr. Neal: No, sir, he is entitled to explain.

The Court: He will be permitted to explain.

Mr. Berke: If Your Honor please, if he wants to go into all these matters what the facts are then I want a chance to go back to all these things that the Court has already ruled I can't do.

Mr. Neal: He can't do that when it was brought up by Mr. Berke.

Mr. Berke: Mr. Neal, I would appreciate being heard out. This is at Mr. Neal's suggestion. This is at the government's suggestion. They say they want him to explain these charges. Now if he wants to explain them I have no objection to it. But this is a two-edged sword, if Your Honor please. If he wants to do that I want to go into some of these other charges that he claims that he forgot or conveniently forgot and I would like an opportunity to do that.

The Court: Let's proceed.

[fol. 3497] Mr. Berke: I would like to lay the ground rules now on it.

The Court: The ground rules, Mr. Berke, have been laid by the courts over a period of about a thousand years and I believe you are familiar with them. Let's proceed.

By Mr. Berke:

Q. Now, Mr. Partin—

Mr. Neal: (Interposing) Just a moment, he is entitled to an explanation and the Court has so said.

The Court: Well, if an explanation is necessary to answer the question, he may be permitted to explain it. If it is not necessary, all right.

The Witness: I didn't get a chance to answer it, sir.

The Court: Well, if you want to make any necessary explanation to answer it truthfully, you may do so.

The Witness: Yes, sir. It was not a case of kidnapping for ransom and so forth. It was a case where my best friend was involved in a family dispute. The husband and wife separated. He took his children and went one place. She took another man and went another way. They are back together. They live together. The charges were dropped.

The Court: Well, I'm going to interrupt. That is not responsive to the question.

[fol. 3498] The Witness: Yes, sir.

Mr. Silets: May the answer be stricken and the jury instructed to disregard it?

The Court: Yes, sir.

Mr. Neal: No, Your Honor, there is no kidnapping charge pending, why should he go into a charge being brought on a situation like that and the charges being dismissed and the family squabble settled and that is the facts?

The Court: Gentlemen, strike the answer. The Court is of the opinion it was not responsive to the question.

Mr. Hooker: Your Honor, is Your Honor striking the part of the answer in which he said it was dismissed? Certainly he has got a right to state that.

Mr. Berke: Just a minute, I will take the responsibility to go ahead and let that answer go in. That it was dismissed. And I'm going to show why it was dismissed.

The Court: I have ruled upon the matter, gentlemen. Let's proceed.

By Mr. Berke:

Q. As a matter of fact, when you came back from Nashville after your last trip to Nashville, and pursuant to

an agreement that you had with the state attorney general and the United States, wasn't that a charge nolle prosequi on December 12, 1963?

A. I've never talked to the State Attorney General in [fol. 3499] regard to the matter, sir.

Q. Don't you know it was just dropped here about a month ago?

A. I know the lady signed a, a good friend of mine that said he didn't want to prosecute several months, a year ago, I don't know how long.

Q. Actually it was dismissed here just six or seven weeks before you came up here to testify?

A. I don't think so. I think the lady withdrawed the charges months ago because I've been with them several times since then.

Q. When was this case nolle prosequi, now we're getting into some modern things more recent, the events you testified to about Nashville, when do you say it was dropped?

A. It was supposed to have been dropped months ago. Now when the courts actually acted on it, I don't know. The lady give them a sworn affidavit and told me they were dropped and as far as I knew they were dropped far back there. Because as I say, we eat together that lady does, her and my family.

Q. Where were you on December 12, 1963?

A. Where was I at?

Q. Yes, sir.

A. I was in Baton Rouge.

Q. Where in Baton Rouge?

[fol. 3500] A. I would imagine a variety of places because I have a lot of territory to cover there.

Q. Were you in court that day?

A. In court?

Q. Yes, sir. When this case was nolle prosequi?

A. No, sir. As I said, I thought it had been dropped months ago.

Q. So some way, even in your absence, it was arranged that this case was dismissed or nolle prosequi?

Mr. Hooker: We object to that, if Your Honor please.
The Court: Sustain the objection.

By Mr. Berke:

Q. Now, is that all the trouble you were in even since that date? Since the kidnapping charge?

Mr. Reddy: May it please the Court, the rule is that he specify.
The Court: All right.
Mr. Reddy: Specify what charge he is talking about.
The Court: Sustain the objection.

By Mr. Berke:

Q. All right, weren't you indicted for perjury in Baton Rouge, Louisiana?
A. Sir, the charge on that was the same one that you [fol. 3501] have.
Q. Will you please answer me, sir, I think I am entitled to that.
A. I cannot answer you, yes or no, because you are splitting up one charge and making two out of it.
Q. Oh, you mean there were two charges?
A. That is what you are doing.
Q. I only asked you about one charge first. And weren't you indicted for perjury? You know what perjury is, don't you?
A. I really do, sir.
Q. What is perjury?

Mr. Reddy: Well, I submit, may it please the Court, he is arguing with the witness.
The Court: Sustain the objection.

By Mr. Berke:

Q. All right, were you indicted for perjury? I will ask it again.

Mr. Reddy: May it please the Court, the rule is that he specify the date that he is talking about.

By Mr. Berke:

Q. All right, on January 21, 1963, Mr. Reddy.

Mr. Reddy: All right.

The Witness: Yes, sir.

Mr. Berke: Yes, sir.

[fol. 3502] Mr. Reddy: That is the end of the matter. He is telling you.

Mr. Berke: If Your Honor please—

The Court: (Interposing) Let's proceed, gentlemen. Let's refrain from any comment between counsel. Mr. Reddy, you will not make remarks like that.

Mr. Reddy: I was answering him, Your Honor.

The Court: Mr. Reddy, do not make such remarks.

Mr. Neal: Your Honor, this is the problem with this kind of cross examination, the witness has no opportunity to explain here regardless of what the circumstances might be.

Mr. Haggerty: Your Honor, I object to Mr. Neal making a statement of this kind in the presence of the jury. If he desires to make one he should ask the jury to be excused.

The Court: I have advised you the Court is attempting to give the broadest possible cross examination. These matters will not be considered by the jury on any issue unless it would be on the issue of credibility of the witness.

Mr. Berke: Yes, Your Honor. Credibility is what we're attacking.

By Mr. Berke:

Q. Now, Mr. Partin, when did you first claim that you [fol. 3503] contacted any representative or official of the State of Louisiana or the United States government in an effort to work with them on this case?

A. It was just several days before I came to Nashville. As far as in reference to this case in Nashville like I told you yesterday.

Q. And that was the first contact that you had with anybody about going up and trying to sit with these defendants and try to funnel information whether it is true or not to the government?

A. I was not under instructions to go up and funnel information and try to sit with them.

Q. When was the first time, I want to pin this down, sir, and it is important, when was the first time that you had any discussion with any official of any government whether it be state or the United States, with reference to working out something about information which you will furnish to them in Nashville?

A. It was several days, as I told you, as I told the jury yesterday, and you, it was several days prior to my coming to Nashville.

Q. Now, what is several days?

A. It was just several days, sir. Two or three or four prior to me coming. I don't know for sure.

Q. So, it is somewhere, two or three or four days before [fol. 3504] you went up there?

A. I can't tie it down to the exact days but I said it was a short time before I came up, yes, sir.

Q. All right. Now, who did you talk to?

A. Mr. Frank Grimsley.

Q. Anybody else?

A. Not on the Nashville matter. No, sir. As I said before it was something not related to this matter that the other was involved in.

Q. Was anybody else present two or three or four days before this Nashville case came up when you talked to Mr. Grimsley?

A. I believe a Mr. Daniels was present. I think so. Now I'm not positive. I believe he was, sir.

Q. All right, sir, where did you meet them?

A. On the Nashville case? Is that what you are saying?

Q. Well, you met them, didn't you say, sir, you said two, three or four days before, where did you meet them?

A. Sir, I don't think you would want it come out where I met them on the other. I asked you was you talking about Nashville or what was you talking about?

Q. Now, Mr. Partin—

The Court: Just respond to the question.

Mr. Berke: You respond to the questions.

[fol. 3505] The Witness: Sir, I don't understand whether you said just the Nashville case or what, sir. Would you repeat the question?

By Mr. Berke:

Q. When was the first time that you ever talked to Mr. Grimsley about information that you were to try to give to the government whether it was true or false?

Mr. Neal: Your Honor, that is an unfair question. We object to it about whether you give information true or false.

The Court: Sustain the objection.

[fol. 3506] Q. When was the first time?

A. Sir, I may have talked to Mr. Grimsley once before then maybe in person, maybe on the phone, but in Atlanta I talked to Mr. Grimsley and I am not positive of that conversation if the Nashville case came up then, it may have came up on a phone call later.

Q. When before that time—now, I have already asked you when the first time you saw Grimsley, you said two or three or four days. Now, you say you saw him in Atlanta before that time?

A. That was just prior to me coming up here, I think.

Q. So that would be about a day before you came up to Nashville?

A. No, sir, I don't think it was that close, no, sir.

Q. Well, it was after you had met him in Louisiana, right?

A. Yes, sir, uh-hmm.

Q. All right. Now, you met him in Louisiana two, three, or four days before. When do you say now you met him from that time up until the second meeting you had with him?

A. If it was in regard to the—I don't think I met him in regard the Nashville matter—I don't think I met him but once in person, I may have talked to him on two or three times.

Q. Regardless of whether it's on any matter, sir.

[fol. 3507] Mr. Neal: Your Honor, if it's only something not in regard to the Nashville matter, is it relevant? We object to any meeting any time anywhere that is not in regard to the Nashville matter.

Mr. Berke: If your Honor please, I think—

The Court: (Interposing) Well, let's proceed.

By Mr. Berke:

Q. All right. Answer the question.

A. In regard to what I met him for or when I met him?

Q. In regards to when you met him on any reason at all.

Mr. Neal: Talking about just the time, now?

Q. That's right.

Mr. Neal: May I—

A. (Interposing) It was probably a couple of weeks, I say probably because it was a short time in between.

Q. Didn't you tell the jury just a while ago that the first time that you met Mr. Grimsley was two, three or four days before the Nashville hearing and that you saw him the second time just a day or two before the Nashville hearing?

A. I think that the jury understood me to say on the Nashville matter, sir.

Q. Well, you answer my question. Didn't you make those answers?

A. On the Nashville matter, yes, sir, I certainly did.
[fol. 3508] Q. All right. So you saw him twice on the Nashville matter, the first one about two, three or four days before the Nashville case come up, and then once a day or two before the Nashville case came up, is that right? Am I asking you correctly?

A. The best of my recollection I met him a couple of times prior to coming up and I met him prior to that was on something not related at all to the Nashville case.

Q. When was that?

A. Several days—

Mr. Neal: (Interposing) He answered that two or three weeks before the Nashville matter, I think.

Mr. Berke: If your Honor please, I would appreciate it—

The Court: (Interposing) Yes, let's see if you can get your question a little more specific, Mr. Berke, they are rather—

By Mr. Berke:

Q. (Interposing) When did you first meet Mr. Grimsley for any reason whatever from the day you were born up until the first time that you met Mr. Grimsley?

A. I would imagine it was two or three weeks prior to this other, I am just guessing at the approximate time, give or take a week.

Q. Two or three weeks before the Nashville hearing and [fol. 3509] that date we are talking was August 22nd, 1962?

A. No, sir. I said before the meeting on the Nashville matter.

Q. So that would be some two or three weeks before, two or three days before the Nashville hearing? Am I correct there now?

A. I would guess about two or three weeks, as I said, it could be a week, give or take one way or another.

Q. Now, at that time why did you go there or who invited you there?

Mr. Neal: Your Honor, object to this and if—

The Court: (Interposing) He is asking about any matter pertaining to the Nashville case. I will allow him to answer it. Is your question directed about meeting with him about anything pertaining to Nashville?

Mr. Berke: Because at that time he was under a charge by the United States Government and I think we would be entitled to go into that.

The Court: Overruled.

Mr. Neal: We are not trying to exclude evidence from the Court.

Mr. Branstetter: I object to Mr. Neal talking about what he is going to do about the charges or some other matter. This witness, may it please the Court, cannot, as I understand the law—

[fol. 3510] The Court: (Interposing) I am overruling the objection.

Mr. Neal: Then, your Honor, I think the jury should be excused momentarily.

(Thereupon, the jury and four alternates were excluded from the courtroom and the following proceedings were had, to-wit:)

Mr. Berke: If your Honor please, I would like for the witness to be excused during this argument.

The Court: All right. Yes.

(Witness temporarily excused.)

COLLOQUY BETWEEN COURT AND COUNSEL

Mr. Neal: Your Honor, I am trying to protect everyone here from something that is very prejudicial to these defendants, and I will go further and try to protect the defendants by asking for an in chambers hearing.

The Court: All right. Very well. I think it would be easier, gentlemen, rather than try to remove the court and all that we ask that the courtroom be vacated at this time

by all persons other than the parties and their counsel and the court officers.

The Marshal: Everyone leave the courtroom quietly, please.

Marshal Disspayne: Am I excluded from the courtroom?

The Court: Just a moment.

[fol. 3511] Marshal Disspayne: Your Honor.

The Court: Just a moment.

(Thereupon, the persons referred to above were excluded from the courtroom.)

The Court: Now, gentlemen, is everyone out of the courtroom other than parties or counsel or officers of the court?

Mr. Haggerty: I raise a question, Your Honor, may I ask permission to have Mr. Buffalino stay in the courtroom? I don't know if Marshal Disspayne knows that or not. Your Honor said he may stay.

The Court: Mr. Buffalino?

Mr. Haggerty: Yes, I presume he may stay. The government counsel they asked permission to stay are in the courtroom.

[fol. 3512] The Court: Is there any question about that?

Mr. Hooker: No, sir.

Mr. Haggerty: And Lawyer Kossman, your Honor.

The Court: All right. Any question about that?

Mr. Neal: Is he here to criticize?

Mr. Haggerty: Yes, he is here to criticize.

Mr. Neal: May it please the Court, this is a matter here that should not be gone into. Now, I have tried to prevent this in order for a fair trial for all of the defendants. I don't even care to go into it myself. I am not trying to exclude the defense from going into trying to develop whether there has been a bargain between this witness or the government because there has not been and I have no fear of that.

I do have fear of certain prejudicial matter coming out that might cause prejudice against one of these defendants when you are going into certain of these meetings you are

going into that. If meetings are limited to the Nashville case or whether there has been any promises made then that should not come out. If the meetings, in other words, if the questions to this man are limited to the Nashville case, the Nashville situation, and whether promises were made which I, of course, think would be relevant cross examination, nothing in regard to that need come out. If they go into prior meetings, if it's a prior meeting a week or two [fol. 3513] ahead of that and what it concerned, then we are heading for trouble or the defendants are heading for trouble.

Mr. Berke: If your Honor please, if that is all the statement Mr. Neal makes I don't know why the entire audience was excluded. He hasn't said a word.

Mr. Neal: I don't particularly want—

Mr. Berke: (Interposing) I have no objection to going ahead. You excluded them. Go ahead and tell what it is.

Mr. Neal: Very well. This man reported a threat by James Hoffa to kill the Attorney General. He took a lie detector test on it and passed the test with flying colors. Now, that's an FBI report, that is something I do not want to come out to this jury.

Mr. Silets: Your Honor, if that is in an FBI report then why wasn't that turned over as a Jencks statement?

Mr. Neal: Not a Jencks statement.

Mr. Silets: He made a statement, your Honor, if this man took a lie detector test and asked questions, the questions were recorded and that is substantially, in fact, a verbatim transcript.

Now, Mr. Neal knows that and that's under Section 3500.

Mr. Neal: Your Honor, that couldn't—suppose this man had given a statement about the Korean War, would I be [fol. 3514] required to call it a Jencks statement?

Mr. Silets: He has to turn that over to the Court for the Court to determine whether it fits under Jencks and he never did.

[fol. 3515] Mr. Neal: That is not true, Your Honor. That is not the ruling of the Jencks statements. Any time a man

makes a statement to the government about something that may be six years apart is a Jencks statement, it is impossible.

Mr. Silets: Any time the government has in its possession verbatim or substantially verbatim report by the witness and the defense makes a demand for it and it is to be turned over to the court in camera the government is obliged by the statute to turn it over and let the Court decide and Your Honor on this basis I now move that the entire testimony of this man be stricken because the government has not followed the letter of the law.

The Court: Overrule the objection.

Mr. Neal: Your Honor, I will be happy to turn this matter over to the Court. I don't think the Jencks statement means that every time anybody ever has given a statement to the government on any matter that that is a Jencks statement.

The Court: File it with the Court.

Mr. Neal: I will file it with the Court. This man took a lie detector test on this matter and passed it. My own information about this Your Honor, is strictly hearsay. I know nothing about the threats or anything else other than what is in the FBI report. And I do not want that matter gone into before the jury for obvious reasons.

[fol. 3516] The Court: Turn the report over to the Court. All right, gentlemen, anything else?

Mr. Silets: Just a moment, Your Honor.

The Court: May we proceed. The defendants will be limited in their examination of this witness with respect to whether or not any meetings with Mr. Grimsley any promises were made to him. There will be no other examination with respect to any matters not pertaining to the Nashville case.

Mr. Schiffer: Your Honor, I was just going to suggest to save time, would you take a recess now, a ten minute recess, right close to the hour rather than coming back and breaking up again?

Mr. Berke: I'm ready to proceed for another thirty minutes before we recess.

The Court: I rather think we might proceed, Mr. Schiffer.

Mr. Schiffer: All right, I just brought it to the attention of the Court.

Mr. Branstetter: May it please the Court, I don't know whether it is going to relate to the Defendant Campbell or not. If it does I want him to have an open, public trial, the people back in at this point.

But I do want to raise this before the type of question is made that if this witness is permitted to refuse to answer questions as to whether or not it may or may not re- [fol. 3517] late to the so-called Nashville case then this defendant and defendant Campbell if it arrives at that point is absolutely being denied cross examination because we cannot accept nor can the Court accept in a proceeding of this character criminal in nature, a statement from a witness that he has judged that does not relate to a particular matter. I have never heard of such a thing. If questions are asked as the movement along is made in the judicial proceeding and the court rules that they are then immaterial or that if they are objectionable as not relating to the issues that is one thing, but to say in advance that a particular meeting did not result in a particular results and to ask specifically did you meet and did you agree that you would make this testimony if the government would dismiss the case, I am not saying—

Mr. Neal: I have no objection to those kind of answers.

Mr. Branstetter: But on my cross examination unless the Court rules, I will not confine myself to that because of the simple proposition.

The Court: All counsel are instructed to confine themselves in the examination of the witness with regard to any meetings with Mr. Grimsley prior to a time that any discussion of the Nashville matter was had, to questions as to whether there were any promises or any threats made to [fol. 3518] this witness that would in any way influence his testimony in this case.

Mr. Berke: Of course, Your Honor, I'm speaking for Mr. Hoffa now. I represent Mr. Hoffa. This accusation of course is the most fantastic one that we have ever heard of.

The Court: Well, it is not material in any way to this lawsuit.

Mr. Berke: We have no objection, if Your Honor please. We think it is so fantastic and is so unbelievable as is some of his other testimony I'm not making a speech before the jury, because the jury is not here, that of course, we're going to have to abide by the Court's ruling but it is not that we are trying to suppress that, if Your Honor please, because we have no fear of it and know it is not true.

The Court: We have enough to try here, gentlemen. We're not going to go into immaterial and unrelated matters.

Mr. Neal: Whether or not Your Honor, Mr. Berke, Mr. Hoffa, might not object to it, I can guarantee the other defendants would immediately move for a mistrial.

The Court: The Court has already ruled, Mr. Neal, and that ruling I believe is very clear and the Court will expect every counsel to observe that ruling.

Mr. Berke: If Your Honor please, I suggest then in [fol. 3519] order that there be no question about it so that the Court's ruling would not be violated, that the Court instruct the witness that even though I may question him about that Atlanta meeting, I think that I'm entitled to go into it that he did meet him and to show what charges were against this witness at that time and not go into the purpose of the meeting but this witness has a tendency to blurt things out anyway and I think it would be a good suggestion even though it didn't come from me, Your Honor.

The Court: All right, let's have the witness return.

Mr. Branstetter: May it please the Court, I don't want to violate the Court's order and I want to know what the order is before we proceed further if I can ask the Court because I understood on cross examination and I want to know if the Court's ruling goes this far, that I cannot ask this witness about a conversation that he had with Grimsley

or with the other two people he testified yesterday about having meetings with and conversations with because I can't, I want the Court to rule specifically so—, I'm not going to violate the Court's order intentionally but I do want to know that the Court is absolutely limiting cross examination where I cannot go into any area of that or else I intend to do it and let the Court instruct the witness not to answer so that until such time we can see what the points [fol. 3520] are. I intend to ask him specific conversations that he had with every government official. If the Court then rules that is improper then the witness should not answer. I want to know what the specific judgment of the Court is. I don't want to do in a manner contrary to what the Court ruled.

The Court: I believe the Court's instructions are clear in that respect.

Mr. Branstetter: Could we get at the recess or sometime, have just enough time to copy out that short part so we will know? I'm sincere about this, may it please the Court.

The Court: Well, no attorney will be permitted to ask the witness questions about any conversations between himself and Mr. Grimsley that related to any alleged threat by any defendant against any officer of the government.

Mr. Silets: Your Honor, is Your Honor making a decision now that the conversation with Mr. Grimsley two or three weeks before his seeing him three or four days before this case started is in fact an exclusively considered with respect to this purported threat? Is that what the Court is concluding now?

[fol. 3521] The Court: I believe my instructions are clear.

Mr. Silets: Well, your Honor, I don't want to be held in contempt and I want to understand correctly.

The Court: Yes, and any attorney will be held in contempt if he asks a question that selects as its response the matter of an alleged threat by any party defendant against any official in the government.

Mr. Silets: Well, your Honor—

The Court: (Interposing) And I will instruct the witness in that respect.

Mr. Silets: Your Honor, now I just want to give to the Court a suggested line of questioning. If I ask did he meet with Mr. Grimsley in September 1962? Answer, yes. Who was present? And I ask him to relate the conversation, is that then in violation of your Honor's order? Because if so, it seems to me your Honor is now concluding as a final determination that the sole and only substance of this conversation pertained to what he purports is a threat.

The Court: I have indicated you may ask him whether in any conversation he had with any official of the government there was any threat or any promise of any kind, you may ask him of any conversation that he may have had pertaining to the Nashville case. I believe that my instructions are clear.

Mr. Berke: We can ask him if any conversation—

[fol. 3522] The Court: (Interposing) Or charges against the defendant.

Mr. Branstetter: Then, this witness will be the judge of whether or not it did relate to the Nashville case?

Mr. Berke: Because we want to and we will, your Honor, your Honor knows that I will comply with the Court's ruling, have to, of course, but we want to note our exceptions but we would like the Court to make it perfectly clear to the witness to prevent any possibility of the Court attaching—

The Court: (Interposing) I will. Have the witness come in.

Mr. Berke: Attaching some contempt to us.

Mr. Silets: Your Honor, I want to show—

(Thereupon, the Witness Partin, returned into the courtroom, and the following proceedings were had, to-wit:)

The Court: Mr. Partin, you will not be permitted to respond in connection with any question as to any conversation that you might have had with any government official

or anyone else relating to any threat made against any person or any official of the government and unrelated to the Nashville case. We will just strike that. Any threat alleged to have been made by any defendant against any person.

The Witness: Yes, sir.

Mr. Berke: May I suggest, your Honor, make it abso-
[fol. 3523] lutely clear, would your Honor ask the witness if he understands what you say and to repeat any instruction?

The Court: Any conversation you may have had with Mr. Grimsley or with any government official, you will not relate any matters in that conversation that may in any way pertain to alleged threat by any party or defendant against any government official.

[fol. 3524] Mr. Silets: Your Honor, can the witness be instructed also that this admonition does not relate to any other matters that were discussed with Mr. Grimsley or any other state official or anybody else at any time?

The Court: Yes. This instruction is very specific and limited to that matter. The Court is of the opinion that would not be proper in any respect at this stage in connection with that.

Mr. Neal: Does the witness understand?

Mr. Alexander: May it please the Court—

Mr. Neal: (Interposing) I am sure the witness understands that the subject matter of what we—

Mr. Berke: (Interposing) That's what I am trying to be sure.

The Court: Well, I think—

Mr. Neal: (Interposing) Your Honor, let's let him say it.

The Court: There's been no testimony by this witness, this witness is instructed he will not, inadvertently or otherwise, respond to any question about any conversation that he may have had with any official or attorney with the government or otherwise about any alleged threat by any party defendant against any government official.

The Witness: I understand that.

Mr. Alexander: If it please your Honor, this witness has [fol. 3525] a very subtle way of getting things before the jury that he wants them to hear.

Mr. Branstetter: May it please the Court, could the witness be out when we talk about it?

The Court: All right. Step out, please.

(The witness was temporarily excused.)

Mr. Alexander: I would also request that he be instructed to make no reference to your Honor having him instructed on this matter.

The Court: All right.

Mr. Berke: For the record, if your Honor please, would the record show that we are now moving for a mistrial on the ground of this prejudicial matter, a matter which the Court now seeks to exclude and in addition to the other grounds which we have repeatedly requested a mistrial on and we are combining that now as an additional ground.

The Court: You mean it's a ground for a mistrial for the Court to keep out prejudicial matter?

Mr. Haggerty: May it please the Court, I say it may be a ground for a mistrial if the Court, in the exercise of his discretion erroneously restricts and limits cross examination. It appears to me, I have listened very carefully, it appears to me that this is a shield thrown up by the government for no other purpose than to restrict and limit our cross examination.

[fol. 3526] The Court: Does every defendant—let's state for the record and have the defendants themselves or have their counsel state, does every defendant in this record waive any prejudice if that statement should come out?

Mr. Silets: I don't waive any prejudice for the defendant.

The Court: All right, then, gentlemen, don't try to ride both sides of the fence.

Mr. Silets: Your Honor, this proof—

Mr. Neal: Your Honor—

Mr. Silets: (Interposing) We are not on the same side of the fence because Hoffa's sitting at the same table with Dorfman, I am representing Dorfman—

The Court: (Interposing) All right.

Mr. Silets: Mr. Haggerty feels that he has to represent Mr. Hoffa in the way he sees fit. This is the bias of Mr. Neal and the grand jury and the Court continuing to try these people together.

No, I am not going to join in any motion. It may be good for Mr. Hoffa but it might not be good for Mr. Dorfman.

The Court: All right.

Mr. Neal: That is the reason I stood up, your Honor. I think Mr. Haggerty's remarks are most unbecoming to Mr. Haggerty that this is something of a shield.

Your Honor has permitted cross examination here far [fol. 3527] beyond what your Honor knows is permitted by the Sixth Circuit. I am not being critical of your Honor. It is an important witness. If your Honor thinks that is necessary and in fairness, but your Honor been far more lenient than the rules of the Sixth Circuit require as Henderson vs. United States and Smith vs. United States clearly shows, so it's not a matter of putting up a shield against cross examination.

[fol. 3528] The Court: All right.

Mr. Silets: Your Honor, I move for a severance because it is to the best advantage of Mr. Hoffa to have this go in and it's not to our advantage.

Now, there are two distinct and opposite approaches to this cross examination. We cannot either one of us have a fair trial here.

The Court: Overrule the motion.

Mr. Branstetter: May it please the Court, on behalf of the Defendant Campbell, I would like to at this time move for a mistrial on the basis that the Court has effectively limited cross examination of this witness and so instructed the witness. If the Court does not see fit to grant the motion for a mistrial, then I respectfully move the Court for a severance at this time because the extent of the cross

examination of this witness would produce antagonistic defenses or theories of defense as between the Defendant Hoffa and the Defendant Campbell and because of the close relationship that has been sought to be established here by the government with reference to these two defendants, certainly the Defendant Campbell cannot receive a fair trial.

Mr. Schiffer: The Defendant Parks adopts the motion of Mr. Branstetter.

Mr. Berke: That is for all defendants.

The Court: All right. For all defendants.

[fol. 3529] Mr. Grady: I'd like to point out, your Honor, we renew our motion for a severance, certainly it's apparent to the Court that Mr. Tweel, who is only coupled with these other defendants by a friendship with Mr. Dorfman only, doesn't even know Mr. Hoffa, and the allegations now that this man has made is an entirely different situation to the other defendants.

We would like to renew our motion for a severance and except to your Honor's order in this matter.

Mr. Branstetter: There should be one further request made of the Court and certainly I am doing this, I don't want the Court, the Court has indicated there may be someone trying to play both sides of the fence, certainly I have never intended to play both sides of the fence.

The Court: That remark may have been inappropriate. The position the Court was stating was that the Court did not think that that was all material, did not think it should be admitted, regardless of whether it's prejudicial or not prejudicial and—

Mr. Branstetter: (Interposing) I think I understood the reasoning of the Court, and I did not mean to be stating that the Court stated it improperly, but since this matter has reached this point and since we had demanded the Jencks statements previously, I would suggest properly if the Court knew the total truth now that this witness took [fol. 3530] a lie detector test on the material he has testified about and if he did then it would be a total transcription

of a record taken down as to what occurred, specifically with reference to the matter that he has testified about and not the matters which the Court is now excluding. That, that being the case I think we should be entitled to see those matters also under the Jencks Act.

The Court: All right.

Mr. Branstetter: We think there is a withholding under the Jencks Act under Genevea case, I believe it is, I will have to produce this to the Court. There has been a withholding up to this point and we have proceeded far into the cross examination, or at least one defendant has of this witness without the availability of this material and when it reaches the Defendant Campbell I will object unless the Court directs me otherwise and refuse to proceed until the Court has ruled on that particular point.

The Court: All right.

Mr. Schiffer: Your Honor, if the Court please, insofar as the Defendant Parks is concerned, we will waive on behalf of Mr. Parks and the Court can introduce and permit to be introduced all this evidence about the threats which Mr. Neal has spoken about which he is fearful that may come from the lips of this witness. Insofar as the Defendant Parks is concerned, we feel we are in a position to waive or [fol. 3531] we do so waive with no prejudice to Mr. Parks.

The Court: All right. All motions for mistrial and for severance will be overruled.

Mr. Berke: Two little matters and very brief, if your Honor please, we would like at this time to call on the government to advise us if they have any other such statements or lie detector tests of this witness which was transcribed about matters relating to the Nashville trial.

If there is, then we want to call upon them for examination to see if it falls within the Jencks statement rule.

The Court: Yes. They will be ordered to produce such statements or documents.

Mr. Neal: We have nothing else.

Mr. Branstetter: Does that mean counsel's statement means no lie detector test was given to this witness?

Mr. Neal: The witness, to my knowledge, has been given one lie detector test in regard to the matter just—

Mr. Branstetter: (Interposing) To his knowledge? We want them to produce any.

Mr. Neal: I say officially for the government, the prosecution in this case.

Mr. Branstetter: The FBI, does he speak for the FBI also?

Mr. Neal: May it please the Court, all I can do is I [fol. 3532] have a letter in the files calling on the FBI, the IRS, and various other governmental authorities for all statements given by witnesses on the attached list. They have responded to me and we have turned it over.

Mr. Branstetter: Now, I again apologize but I think it is necessary, may it please the Court. The Court may become weary of this sort of thing, there is no intention on my part to make the Court weary, but I was not in the previous case that is so much discussed at the time of trial. But now the publicity, and I am not going to be extensive on this at all, but the publicity that reached this point and the jurors read and that they knew about, there were many secret sessions there in Nashville in the preceding trial and it later developed and this jury now knows now from the proof that those secret sessions dealt with jury tampering specifically.

Now we are now engaged in a secret session at the request of the government. I think that alone will prejudice these defendants, or Campbell particularly, to the point where he could not conceivably receive a fair trial.

The Court: Mr. Branstetter, the jury is out of the courtroom as it has been out of the courtroom upon many occasions. Let's be a little more responsible, please, in making these motions.

[fol. 3533] Mr. Berke: Very brief, your Honor, I state that there were two matters and we have disposed of the first one and this I think is very important. The last answer that the witness gave responding to me said you wouldn't want me to answer that. Now, if he doesn't answer it I don't

want that to be held that I'm objecting to the answer and I would like for the Court to instruct the jury that that should not bear any prejudice against the defendant and I think your Honor can see that that is a proper request.

The Court: All right.

Mr. Schiffer: It should be stricken, I would suggest, your Honor.

Mr. Berke: Now, if your Honor please, we've gone far beyond what I had anticipated. I think now is the time to have a recess.

The Court: All right.

Mr. Haggerty: One other matter, your Honor.

The Court: Yes, Mr. Haggerty.

Mr. Haggerty: I haven't it straight and I don't know if the record is straight in reference to the lie detector test. Did Mr. Neal say that this witness, as far as he knows, did not have a lie detector test in connection with this case?

Mr. Neal: Yes, I said as far as I know the witness was given one lie detector test in his life and that was with [fol. 3534] respect to the threat by Defendant Hoffa and the results of that test as well as the statements are in the hands of the Court.

The Court: All right.

Mr. Branstetter: Could we inquire—

Mr. Silets: May the record show that that was done only after request by defense counsel?

Mr. Neal: Quite all right.

Mr. Branstetter: Would the Court give one instruction, would it be improper to ask this witness if he had taken more than one lie detector test on cross examination? I don't want to get into the problem—

The Court: (Interposing) All right.

Mr. Neal: Your Honor, that is not proper cross examination.

The Court: All right.

Mr. Haggerty: One other matter, your Honor, and in your Honor's ruling we will be able to establish clearly that Mr. Hoffa has never met with Partin since Nashville.

If during Nashville it is Partin's contention that Mr. Hoffa made this threat against the Attorney General, then it is part of this case and I think it should be covered by and allowed to be covered by examination.

The Court: All right.

Mr. Neal: Well, your Honor will see that this occurred [fol. 3535] prior to the Nashville case.

Mr. Haggerty: And I ask your Honor if there is a transcript or recording of this man Partin's claim that he has made against Mr. Hoffa in reference to this threat that it be furnished, your Honor, and your Honor give an account of it.

The Court: Just one moment before anyone leaves, of course all parties and all attorneys and all officers of the court, any others in the courtroom at this time will be instructed not to in anywise discuss the matters here discussed so as to make the same in any way public.

All right, gentlemen, let's be in recess for ten minutes.

(Thereupon, at 10:45 o'clock A.M. court was in recess.)

[fol. 3536] (Thereupon, after recess, court was in session.)

The Court: May we have the jury return?

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and the following proceedings were had to-wit:)

The Court: May we have the witness return? Ladies and gentlemen, the response of the witness to the question asked to him shortly before we adjourned by Mr. Berke—

(Thereupon, the witness Partin returned to the courtroom.)

The Court: (Continuing) —about his conversation with a Mr. Grimsley was not responsive to the question and should, therefore, not be considered by the jury and will be disregarded.

Further cross examination.

By Mr. Berke:

Q. Mr. Partin, I believe before we had the recess you said that you went to Mr. Grimsley's office in Atlanta, Georgia. Is that correct?

A. No, sir, I didn't.

Q. Well, did you go there to Mr. Grimsley's office in Atlanta?

A. No, I did not.

Q. You say you did not?

[fol. 3537] A. I said I did not, sir.

Q. Well, did you go to Atlanta?

A. Yes, I did.

Q. Where did you meet Mr. Grimsley in Atlanta?

A. I believe it was in a hotel room, sir.

Q. Was that the hotel where you were staying or where he was staying?

A. Well, I didn't stay there. We didn't stay all day. Neither one of us stayed. We had a room but neither one of us stayed.

Q. What arrangements did you have about meeting him? How did you know where to find Mr. Grimsley?

A. I would imagine I called him on the telephone would be the logical way to do it.

Q. Did you know Mr. Grimsley before that time?

A. Yes, I did.

Q. When did you first meet him?

A. I can't recall in days, sir. I would say anywhere from 30 to 60 days maybe.

Q. Well, where did you meet him?

A. The first time I don't know, I don't remember whether it was in the hotel or whether it was in the room or where it was at on the first meeting.

Q. What city did you meet him in?

A. Baton Rouge.

[fol. 3538] Mr. Silets: What was that answer?

The Court: Baton Rouge.

Mr. Silets: May he be directed to speak up, Your Honor?

The Court: All right, speak up, Mr. Partin.

The Witness: In Baton Rouge, sir.

By Mr. Berke:

Q. How long before this trip that you made to Atlanta was it that you met him in Baton Rouge?

A. I couldn't be positive of it, sir. As I said it was about sixty day acquaintance. Thirty days. Give or take a few days either way. I'm just guessing at it now. If there is any different information I would be glad to admit it because I just don't know.

Q. Sixty or thirty day period, give or take one or two days?

A. I would guess that sir. I'm not trying to evade your question but I can't distinctly remember exactly what days it was.

Q. Well, is it thirty or sixty days? That is give or take thirty days?

A. I said I didn't know.

Q. I can't hear you.

A. I said I don't know exactly how many days.

Mr. Branstetter: May it please the Court, we can't hear [fol. 3539] the witness' response at all.

The Court: Try to be quiet in the courtroom. There is quite a bit of noise in the courtroom.

By Mr. Berke:

Q. Didn't you say, didn't I ask you before when was the first time you met Mr. Grimsley and you said in Atlanta?

A. I don't believe I said in Atlanta, sir. I said in regard to the Nashville trial as far as discussing the Nashville trial I'm sure that was the first meeting, sir.

Q. Now you say that the discussion you had in Atlanta the first time was with regard to the Nashville trial.

A. Sir, we really didn't have much of a discussion. I would have to qualify it, sir, because the meeting didn't come off as was supposed to. That is what I want to tell you. It was a meeting as such, there was none.

Q. The question I'm asking you, didn't you just tell the jury that the first time you had any discussion with Mr. Grimsley with reference to the Nashville trial was in Atlanta, Georgia? Didn't you just tell us that?

A. I certainly did, sir. I said in detail and enough to—

Q. All right. Now—

A. Could I further answer on that, sir? I said in detail.

[fol. 3540] By Mr. Berke:

Q. You say in detail?

A. That is what I said, sir.

Q. Did you say that before or didn't you just now add in detail?

A. Well, sir, it may have been a thousand people that mentioned that Mr. Hoffa was going to be tried. Whether Mr. Grimsley is one of them or not, I don't know.

Q. Well, did Mr. Grimsley ever tell you that Mr. Hoffa was going to be tried? Is that the first information you had about it?

A. I read it, sir.

Q. What has a thousand people got to do with this?

A. I don't know but I guess you could ask them, any of them know it out in the audience probably would.

Q. I'm asking you when you first talked to Mr. Grimsley about Mr. Hoffa's case.

A. In enough detail to consider it being talking about it unless it was casual remark was in Atlanta, Georgia.

Q. All right. When did you first talk to Mr. Grimsley casually or any other way?

A. I don't know if I talked to him. I said if I did it would be in a casual remark such as Mr. Hoffa being tried such as anyone else. There were no details at all worked out as far as the time or anything else with reference to what to [fol. 3541] do at the trial on that.

Q. Well, did you discuss anything at all with Mr. Grimsley before your Nashville—, before your Atlanta trip in Baton Rouge?

A. Oh, it was quite possible, yes, sir.

Q. Do you remember what it was?

A. Yes, sir.

Q. Was it about the Hoffa case?

A. Sir, I told you it was not in enough detail to even remember it if it was.

Q. Now you pretty well knew in detail, didn't you, Mr. Partin, when Mr. Hooker went through every detailed conversation day by day, place by place, time by time, witness by witness, didn't you?

A. I'm sure I missed a lot of it, but if you do the same thing he did and furnish me with a telephone call to Newark, New Jersey I could tell you exactly when it was discussed the same as I did him when Mr. Hoffa invited me to Nashville because that is the first time I knew I was going to Nashville. Certainly I couldn't set up something in Nashville not knowing I was going there.

Q. All right, before you discussed this Hoffa case you knew you were going to Nashville? Am I right now? I'm trying to follow you, Mr. Partin.

A. I'm trying to follow you, sir. If you will re-ask the [fol. 3542] question.

Q. Will the reporter please ask the question? I thought it was clear. Ask the question, Mr. Reporter?

[fol. 3543] The Reporter: "Question: All right. Before you discussed this Hoffa case you knew you were going to Nashville, am I right now? I am trying to follow you, Mr. Partin.

"Answer: I am trying to follow you, sir. If you will re-ask the question.

"Well, I would have to qualify any answer if I did answer it yes or no."

By Mr. Berke:

Q. You mean your answer to that question is yes and no?

A. I said I would have to qualify it in order to say yes or no.

Q. Well, let me ask you very clearly, at the time you first talked to Mr. Grimsley did you know that you were already going to Nashville?

A. No, sir, I did not.

Q. At the time you talked to Mr. Grimsley did you discuss the Hoffa case with him the first time you met him?

A. I doubt it, sir. It is possible, but not enough to—except to say that he is being tried. I have repeated that.

Q. Now, when Mr. Grimsley came down to Baton Rouge, where were you?

A. I was in an office. I am not positive, I was in an office or either in a motel, I am not sure, I am not positive, [fol. 3544] sir.

Q. Or you could have been in jail?

A. I wasn't in jail when I talked to him, no, sir.

Q. What is that?

A. I wasn't in a jail when I talked to him, no, sir.

Q. Who introduced you to Mr. Grimsley?

A. I believe Mr. Daniels did, I believe.

Q. Well, do you mean you don't know?

A. I am positive, I guess, that Mr. Daniels did, I am saying positive, as close as I could be to being positive.

Q. Now, you believe first and now you are positive. Which is correct?

A. I think Mr. Daniels did, sir.

Q. How long have you known Mr. Daniels?

A. Oh, I have known him on and off for quite a while.

Q. He is an investigator for the District Attorney's office in Louisiana, is he not?

A. I think his title covers that. When I knew him was when he ran a cafe or a restaurant, the first time I knew him.

Q. When you say Mr. Daniels got you in touch with him, isn't it true that he was an investigator for the Attorney General's office?

A. I don't know what his title was, sir. I am sure that he [fol. 3545] was working for him. Not the Attorney General, no, sir, he certainly wasn't.

Q. For the prosecutor's office?

A. Which prosecutor?

Q. Well, do you know—you know who he was?

A. Well, I know he wasn't an investigator for the Attorney General.

Q. Well, if you know he wasn't that, what was he?

A. I couldn't swear to his title, sir, you would have to ask him what his title is.

Q. Well, if you don't know his title, how do you know his title wasn't investigator?

A. I didn't say it wasn't or was, I said he did not work for the Attorney General's office.

Q. Well, who did he work for?

A. This District Attorney of Baton Rouge, not the Attorney General. There is a distinct difference.

Q. What is the difference?

A. Well, one of them is a state attorney general the other one is a parish district attorney, it's a lot of difference.

Q. I see.

A. About 54 parishes difference.

Q. Well, why didn't you tell the jury that when I asked you instead of bantering with me about that question?

[fol. 3546] A. I am not bantering, you just kept—

The Court: (Interposing) All right. The Court has ruled on that.

Q. Mr. Daniels was the same man that was instrumental in investigating the several charges that were pending against you at that time when you talked to Mr. Grimsley?

A. I wouldn't know, you would have to ask him that.

Q. Do you mean at the time that you were introduced to Mr. Grimsley you don't know whether you had any charges pending against you?

A. I didn't say that, that's not what you asked.

Q. Well, did you have any charges pending against you when Mr. Daniels got you in touch with Mr. Grimsley?

A. For two days, yes, sir, certainly did, two days I have been telling the jury and you that.

Q. That what now?

A. That I did have.

Q. You did have charges pending against you?

A. I certainly did.

Q. And that Mr. Daniels was the investigator interested in those charges against you?

A. I said you would have to ask him. I imagine they have more than one investigator.

Q. Now, you said that Mr. Daniels got you in touch with Mr. Grimsley.

[fol. 3547] A. Uh-hmm.

Q. And the first time you met him was in Baton Rouge?

A. Uh-hmm, yes, sir.

Q. And when do you fix that time?

A. I have told you, sir, several times, several times I have answered you on that.

Q. You mean you met him several times in Baton Rogue, Louisiana?

A. I didn't say that. I said I have told you several times of the approximate time I met him.

Q. All right. Tell me again. I don't have it yet. The first time that you met him in Baton Rouge, Louisiana, or anywheres in the United States or its territories?

A. I made the guess, sir, 30-60 days, give or take something. I wasn't positive of the time, the amount of time involved in it.

Q. Was that the first time that you ever knew of Mr. Grimsley?

A. The first time I have ever seen the gentleman, the first time I have ever talked to him, as far as I know.

Q. Who was present, who was present at the time you first talked with him?

A. Mr. Daniels, Mr. Grimsley, Mr. Pitcher.

Q. Now, identify him, who is he?

A. He is a District Attorney and I am not positive who [fol. 3548] the other two gentlemen were.

Q. The other two gentlemen come in with Mr. Grimsley?

A. Not that I know of, sir.

Mr. Brown: Your Honor.

Q. Well, did you call—

Mr. Brown: (Interposing) They didn't hear who he said this man was. May we ask him to repeat the name, please.

The Court: Mr. Grimsley, Mr. Pitcher, the District Attorney General.

Mr. Brown: That's the one, Pitcher?

The Witness: Pitcher.

The Court: Pitcher.

The Witness: (Spelling) P-i-t-c-h-e-r.

Mr. Berke: The Attorney General.

By Mr. Berke:

Q. Did you call Mr. Daniels?

A. No, sir.

Q. To arrange this meeting?

A. No, sir, I did not.

Q. Did Mr. Daniels call you?

A. No, sir. He didn't.

Q. Where did you meet?

A. I answered you a while ago on that. You asked me the first time, I said either in an office, his office or a [fol. 3549] hotel, I think it was in his office.

Q. In whose office?

A. Mr. Daniels' or Mr. Pitcher's, I am not sure which.

Q. Did you call for an appointment?

A. No, I did not.

Q. So you went up there first, you made the approach to the Attorney General's office?

A. I have never talked to the Attorney General's office, sir.

Q. District Attorney's office?

A. No, sir, I don't think I was the one that went to him first, no, sir.

Q. Well, did they go to you first?

A. No, sir, they did not.

Q. Well, if they didn't go to you first, you didn't go to them first, who is first?

A. I think it gets in an area where I shouldn't answer you first, I mean.

Q. Well, this was in Baton Rouge, Louisiana, wasn't it?

A. Yes, sir, it certainly was.

Q. Well, didn't somebody come to somebody first?

A. I think a friend of mine arranged a meeting, but I am not positive, I don't know. You would have to ask the ones, they haven't told me who called them, I don't know.

[fol. 3550] Q. Well, what friend arranged this meeting?

A. I don't know if he arranged it or not, Mr. Herman Thompson may have told him about it and someone else talked about it, I am not in detail who arranged the meeting, they would have to tell you that.

Q. Is your memory faulty about this? This is of a recent event.

A. It's not faulty, no, sir, but I do not know who arranged it because they did not tell me who arranged it. If he had told me I would have remembered.

Q. Well, do you remember who told you to go to the District Attorney's office?

A. I believe Mr. Herman Thompson is the one that discussed it with me, I am not positive, but I believe he was.

Q. Is this something you are not sure about also?

A. Well, I said to the best of my knowledge it was Mr. Herman Thompson.

Q. Now, who is he?

A. I don't know what his duties are now. He used to be with the sheriff's office.

Q. Well, wasn't he a law enforcement officer then?

A. Yes, sir, also a close friend of mine.
Q. And when did he first come to see you?
A. It wasn't too long prior to that meeting.
Q. When?
[fol. 3551] A. I would say a week or two.
Q. A week or two before what?
A. What you asked me.
Q. Well, what did I ask you?
A. Before the meeting.
Q. A week or two before the meeting between you and the District Attorney and Mr. Grimsley and Mr. Daniels and Mr. Pitcher, is that what you are talking about?
A. Yes, sir, that's right.
[fol. 3552] Q. All right, now, when do you place that? What month do you place that in?

Mr. Neal: Your Honor, he has asked and answered that two or three times. Thirty or sixty days give or take a few days in a meeting. I am sure that everyone in the court—

The Court: Seems as though we have considered it. Proceed.

The Witness: As I told you before, sir, 30 or 60 days, give or take a few days. I am not positive.

By Mr. Berke:

Q. That is 30 or 60 days from what?
A. From the Nashville trial, that talk on the Nashville trial.
Q. So then that would have to have been in September, either the early or latter part of September, is that right? Or possibly the latter part of August?
A. That sounds about right, yes, sir.
Q. Of 1962?
A. Yes.
Q. Now, at that time you were in quite a pack of trouble, weren't you?
A. In my opinion, no, sir.
Q. Weren't you indicted and I think Mr. Hooker asked you about that himself, on a 26-count indictment charge

[fol. 3553] in stealing, embezzlement, 13 counts for stealing and embezzlement, and defrauding the union funds, and 13 counts for failing to report it, 26 counts?

A. I think I said that was the same charge I was cleared on by Mr. Hoffa. I believe that is the way I answered it.

Q. I know you said that but weren't you indicted in the United States District Court?

A. I think so.

Q. Weren't you interested in that case?

A. Why certainly, anyone would be interested in it.

Mr. Silets: What was that answer? I didn't hear that, your Honor.

The Witness: I said certainly, anyone would be interested in it.

Mr. Silets: No. That isn't the anewer. Would the reporter please repeat it?

Mr. Berke: Read the answer.

(Thereupon, the reporter read back as follows:)

"Answer: I think I said that was the same charge I was cleared on by Mr. Hoffa. I believe that is the way I answered it.

"Question: I know you said that but weren't you indicted in the United States District Court?

"Answer: I think so.

[fol. 3554] "Question: Weren't you interested in that case?

"Answer: Why, certainly, anyone would be interested in it.'

Mr. Silets: Thank you very much, your Honor.

By Mr. Berke:

Q. In fact, you were interested to the extent that you had to post a $50,000 bond, didn't you?

A. Yes, sir, one that Mr. Hoffa had withdrawn that he put up.

Q. Now, that indictment was returned on July 10, 1962, wasn't it?

A. Approximately that time, I guess, yes, sir.

Q. Now, I will ask you, if it isn't true that during the period of the meeting that you had with the District Attorney, Mr. Grimsley, Mr. Daniels, and other gentlemen that you were then under investigation and were indicted for forgery on September—excuse me, this is a different charge, of kidnapping on September 7, 1962?

A. I believe I have answered that already to the people two or three days in a row.

Q. Now, that was at the time or about the time that you had talked to Mr. Grimsley first about the Hoffa matter?

A. Well, it was right after I came to New York and the meeting with Mr. Hoffa I was under indictment when I met [fol. 3555] him there. So if he checks his hotel records at the New Yorker Hotel I was there with him at that time.

Q. Then at the time you talked to Mr. Grimsley then you said you were already under a kidnapping indictment?

A. I would think I was, yes, sir.

Q. Now, if kidnapping is not a bailable offense, defense, who, if it wasn't the government or the State of Louisiana or the District Attorney that arranged for you to get out on bond on that charge that does not allow bond?

Mr. Reddy: We object to that, may it please the Court. He is arguing with the witness.

The Court: Sustain your objection.

By Mr. Berke:

Q. You were permitted to make bond on that charge on a non-bailable offense?

A. Oh, yes, sir, $5,000.

Q. Of course, you had already talked to the District Attorney and Mr. Daniels before this indictment was returned?

The Court: You will disregard the portion of the questions stating that it was a non-bailable offense, ladies and gentlemen. Restate your question.

By Mr. Berke:

Q. At the time you first talked, I will let you answer it, at the time you first talked to Grimsley, give us the different charges and investigations you were under, the [fol. 3556] amount of pressure you were under?

A. These charges, the federal charges is the main ones.

Q. Well, give us some that are not main ones. Incidental ones like kidnapping. What others?

A. I think the withdrawal card.

Q. That is the forgery?

A. The withdrawal card.

Q. The indictment?

A. Withdrawal card.

Q. Now, what other charges?

A. At that time I believe that was all at that time.

Q. Did you have any civil suits pending against you?

A. Oh, yes, sir.

Q. You had civil suits pending against you for misappropriation of the very funds about which Mr. Hooker talked about, didn't you?

A. Same charge.

Q. Same charge?

A. Same charge.

Q. And you were sued for some $200,000 and you were interested in that, weren't you, from a financial standpoint?

A. I don't think the government would have anything to do with that, sir.

Mr. Neal: Your Honor, aren't we going pretty far afield [fol. 3557] in this matter?

The Court: Yes, sir, going pretty far afield.

Mr. Neal: We object to the question based on civil suits.

The Court: Yes, sir. Proceed.

By Mr. Berke:

Q. Now, in September, 1962, you were relieved of your duties as officer of the International Union, were you not?

A. No, sir, I was not.

Q. Weren't you enjoined by the Federal Court from having to do with any of the cash funds after you were indicted by the government?

A. I was not.

Q. And wasn't your source of money cut off at that time when the judge issued an injunction against you from disbursing funds?

A. He did not issue an injunction, sir.

Q. Weren't you enjoined by the Court on September 6, 1962?

A. No, sir.

Q. Who were you enjoined by?

A. Myself because I was under indictment. Voluntary.

Q. Wasn't an order entered enjoining you?

A. I voluntarily, sir, surrendered the financial responsi-
[fol. 3558] bility until the thing was cleared up, voluntarily.

Q. Then you were under injunction because an order had been entered by the Court enjoining you in this respect?

A. I have never seen it if it has. I volunteered it myself until the charges were cleared up, voluntarily. There is a difference.

[fol. 3559] Q. You don't deny then that there was an injunction to keep you away from the cash funds?

A. I don't think it was, sir, because I went in and made a voluntary agreement to the thing. If it was I am not aware of it. I will put it that way. I went and told my attorneys that it was there.

Q. In addition to that you were under investigation by the United States Government for smuggling guns to Castro in Cuba?

A. That is a—I can't say what it is, sir. It is wrong. Incorrect.

The Court: Ladies and gentlemen, strike that. Ladies and gentlemen, disregard that question and that answer. That has nothing to do with this case.

Mr. Berke: If your Honor please, may we respectfully submit to the Court that we are trying to get to the pressure—

The Court: (Interposing) Let's stay a little closer to the matter of conviction. The matter of repeating or stating charges is not a proper method of cross examining the witness.

Mr. Silets: Your Honor, may it please the Court, I think the very issue here is that this man—

The Court: (Interposing) I have ruled upon the matter, Mr. Silets. Let's move along, Mr. Berke. State any ques-
[fol. 3560] tions you think proper.

By Mr. Berke:

Q. Now, in September 1962, do you remember any other little incidents or minor things that you might have had pressure on you by the courts, either the state or the United States?

A. No, sir, not without it was related to union business and the pressure would have been from Mr. Hoffa on that.

Q. Well, let's exclude union business. Let's stick to criminal charges that might be pressed against you.

A. All right.

Q. Now, is there any other little things now that you have forgotten?

A. Not unless it was connected with union activities, no, sir.

Q. Do you mean if it is not connected with union activities it has been erased from your mind?

A. Well, wasn't anything to erase.

Q. I can't hear you.

A. I said it wasn't anything to erase as far as the charges you are talking about in Baton Rouge?

Q. I am talking about anywhere in the United States, in September 1962, right at the crucial period.

A. I don't remember, no, sir.

[fol. 3561] Q. You don't remember?

A. No, sir.

Q. So that if anything happened it had to be something pretty small, is that right?

A. If it was anything other than what you brought out it would, yes, sir.

Q. Something small like manslaughter, killing a serviceman with an automobile and leaving the scene of an accident, isn't that true?

A. There was a charge, yes, sir.

Q. Yes, sir. And that is that little thing that you forgot about, isn't it?

A. I haven't forgot it, no, sir.

Q. No, sir, and you have a suit pending involving a lot of money as a result of that, don't you?

A. I believe Mr. Hoffa is involved in the same suit, sir. [fol. 3562] Q. You were driving the automobile, though, weren't you?

A. I didn't say that, sir, you said it.

Q. Well, were you driving the automobile?

A. I believe with a charge pending against me I don't think I would have to answer you on that, sir. I would like to get the court to rule on it.

Q. I am asking you.

The Court: Well.

By Mr. Berke:

Q. Do you want to take the Fifth Amendment on that?

A. Certainly not.

Q. Well—

The Court: The witness is not required to answer any question that might in any way tend to incriminate himself but other than that he would be required to respond.

By Mr. Berke:

Q. Answer that question, sir.

A. I can't answer it under those conditions, sir.

Q. Were you driving that automobile that killed that service man?

A. I am not going to answer that if I have a charge pending on me, sir. You can stand there all day. I have never admitted I was, I will put it that way.

Q. Well, do you refuse to answer that question?

[fol. 3563] A. I certainly do.

Q. But you do now remember that you were indicted by the Grand Jury on it?

A. Oh, yes.

Q. And you know it is a serious matter, don't you?

A. Not unless you are convicted, sir, it isn't.

Q. But you know that you have a serious matter pending against you, don't you?

A. I didn't think so, evidently you do.

Q. You knew you were charged with leaving the scene of an accident and leaving a service man lying dead, didn't you?

A. That is what you say, sir.

Q. Well, you knew you were charged with it, don't you?

A. Oh, yes.

Q. Do you consider that a serious charge?

A. If you didn't commit the crime I don't.

Q. I am asking you, do you consider it in your own mind?

A. I say—

Q. (Interposing) As a serious charge.

A. I said if you didn't commit the crime I didn't.

Mr. Berke: If Your Honor please, I would like for the Court to instruct this witness to answer the question.

[fol. 3564] Mr. Neal: Your Honor, I think that this is, of course, objectionable cross examination, Your Honor has recognized. We don't want to—

The Court: (Interposing) I believe he has answered the question. Let's move along.

By Mr. Berke:

Q. When did you tell Mr. Grimsley that you were invited or was going to be at the Nashville trial?

A. Whatever the day of the call was from Mr. Hoffa to me from Newark, New Jersey, you can take that call and get the exact date because that's the exact day I knew I was going to be in Nashville, Tennessee.

Q. Up until that time there was no necessity for discussing the Hoffa trial until you knew you were going to be there, right?

A. Well, I wouldn't think it would be any more than just a generality discussion of it.

Q. Just street discussion that there was a case coming up and that is all?

A. Uh-hmm.

Q. No talk about giving any information to anybody or trying to do anything right or wrong, was there?

A. No, sir, there wasn't.

Q. So you say that the discussion with Mr. Grimsley was after you found out that you were going to be in Nashville? [fol. 3565] A. As far as the discussion of the method, I was supposed to operate or what I was supposed to do or anything around that.

Q. All right. Now, Mr. Partin, you have already told us that you discussed in detail in Atlanta, Georgia, with Mr. Grimsley, about the Nashville Hoffa case didn't you?

A. I did not say that.

Q. All right.

A. You said it.

Q. All right. Tell us again.

A. I said we didn't get in a detailed discussion because one of the parties was supposed to have came didn't show up.

Q. Mr. Partin, didn't you tell the jury that the first time that you went into this Hoffa case of Nashville into any detail was when you saw Mr. Grimsley in Atlanta?

A. No, sir, I said it was went into detail at all but we didn't get to talk about the thing as far as detail because we hadn't got to talk, in fact, have to back up, the majority part of the meeting was for something else.

Q. Well, the first time that you really got into the Nashville Hoffa case was in Atlanta, if you say it's not, you say you didn't testify that, you may answer it any way you wish.

[fol. 3566] A. In the detail, that was answered in, as I said, the meeting was primarily set up for another purpose, not Nashville trial.

Q. But you did discuss a lot of aspects, whether it be in detail or not, a lot of aspects of the Nashville Hoffa trial in Atlanta, Georgia?

A. Not any more than I would discuss with anyone at that time not knowing I was going there.

Q. Didn't you also tell the jury a while ago that you didn't talk to Mr. Grimsley about the Hoffa case or any details, whether it be in great detail or less, until after you were satisfied that you had an invitation one way or the other to come to Nashville?

A. No, sir, I told the jury that I may have discussed it briefly with Mr. Grimsley, but not any details because I didn't know I was going.

Q. Well, please tell us then again when in detail you did discuss it with them?

A. I don't believe until after the trial I got in a detailed discussion with Mr. Grimsley, as far as real details of what he told me to do when I got to Nashville I got in details with him.

Q. I see. Did you talk to Mr. Grimsley in Nashville?

A. No, I never did.

Q. So you couldn't have told Mr. Grimsley in Nashville [fol. 3567] when you got to the trial because he wasn't there.

A. Mister, you didn't ask me did I stop anywhere else along the way or when I was going or when I was coming back, you failed to ask me that.

Q. Well, answer me, please, sir, when was the first time you discussed the Hoffa case, whether it be in detail or little detail or medium detail, when, give us a date, please, sir.

A. I told you I believe this is the fifteenth time now that I don't remember the exact date.

Q. All right. Well, give us an estimate.

A. I have three or four times or fifteen, I don't know.

Q. All right. Give us an estimate, give or take ten, thirty or sixty days.

A. I have answered that already, sir.

Q. Well, let's hear it again.

A. Thirty to sixty days, give or take a few days.

Q. And that is when you discussed the Hoffa case with him?

A. I did not say that, it was another case in its entirety I discussed in detail with them.

Q. I am asking you, Mr. Partin, when you discussed the Hoffa case and Nashville trial with Mr. Grimsley, where in the United States, sir, can you answer that?

[fol. 3568] A. Yes, sir.

Q. All right, answer.

A. Most of the time on the phone when I would have to stop in Atlanta changing planes on the way back to Baton Rouge, most of the time in detail on the phone.

Q. Is it your answer that it's thirty to sixty days, give or take a few days, before the Nashville trial started that you talked to Mr. Grimsley?

A. That's not what you asked me. You asked me when I had talked to him anywhere in the United States.

Q. About the Hoffa case.

A. That is correct.

Q. All right. Now, answer me.

A. Answer you what?

Q. Answer me when you discussed with Mr. Grimsley anywheres, not in the office, not anywhere, you say, you pick it out any place, when was the first time you went into some detail about the Nashville Hoffa case and its trial?

A. In major details, I don't know about just brief conversations, I would say would be most of the time in Atlanta when I stopped on the way to Baton Rouge, Louisiana, I would change planes.

Q. How many days before the trial, I believe you said thirty or sixty, I am trying to find out from you.

A. I didn't say that.

[fol. 3569] Q. Well, when was it?

A. I said—, if you will let me answer I will.

Q. I am letting you answer, sir. I hope I am not cutting you off.

A. Well, give me time.

Q. Take your time.

A. I said after I would leave Nashville going back to New Orleans or Baton Rouge I would change planes, if I had time I would call him, then I would discuss it in detail with him as long as I had time in between planes I would have a conversation with him.

Q. All right. When did you agree to be an informer?

[fol. 3570] A. I have never agreed to be an informer, sir.

Q. When did you tell anybody, whether it's the government or a state agent that you would furnish information about Mr. Hoffa and the trial?

A. The Nashville trial?

Q. Yes, sir.

A. It would have to be after I talked to Mr. Hoffa in Newark, New Jersey, because I said was the first time I knew I was going to go to Nashville.

Q. All right. When did you talk to Mr. Hoffa?

A. Oh, I told you before it was a couple of days, three or four days before I left, the best I can recollect.

Q. All right. After you talked to Mr. Hoffa, where did you go?

A. The best I can remember I stayed around the office for a day or two maybe and then I went from there to Atlanta, I think to change planes, I am not sure of that, to Nashville.

Q. Is that all you did on the trip?

A. I may have talked to Mr. Grimsley on the phone at that time, I don't think so, though.

Q. All right.

A. I don't remember.

Q. So two or three days before the trial you stayed around Baton Rouge, you flew to Atlanta, and on to Nashville, and you don't think you talked to Mr. Grimsley?

[fol. 3571] A. I am not positive. I talked to him several times when I talked in Atlanta.

Q. I am asking you now the three days before this trial started that you are talking about. Now, did you talk to Mr. Grimsley?

A. I would be without knowing for sure, I would almost guess I did talk to him, not knowing for sure, it would be proper to if I were going up there.

Q. In other words, not knowing for sure you would testify that you did?

A. I didn't say that I did, I said after I knew it I said it would be proper after I knew I was going to privately call and get what I was supposed to do.

[fol. 3572] Q. All right. Did you call him?

A. I said I would be almost sure I did because he gave me a phone number of Mr. Sheridan.

Q. All right, did you call him?

A. I think I answered you.

Q. Well, do you say now you did or you didn't?

A. I didn't say. You heard the answer. I said I probably would have called him.

Q. You answered while ago that you don't think that you did call him?

A. I did not say that.

Q. You didn't say that?

A. I don't think so.

Q. When you were in Atlanta and changing planes did you call him?

A. If I changed planes that day in Atlanta I probably called him from there.

Q. Didn't you just tell the jury just a moment ago that when you were in Atlanta you don't think you called him?

A. I said if I changed planes I told him later I probably called him several times. Any time I changed planes I would probably call him.

Q. Now, you knew, Mr. Partin, that I was referring to the time when you were going to Nashville, you changed planes in Atlanta, you testified first that you didn't call [fol. 3573] Mr. Grimsley in Atlanta, now you say that you did call him?

A. No, it is hard to understand what you mean.

Q. All right, I'm asking you a simple question. When you went to the Nashville Hoffa trial and you said you flew from Baton Rouge to Atlanta, when you got to Atlanta, sir, did you or did you not call Mr. Grimsley?

A. I called him before I left Baton Rouge or called him there. I got a number of Mr. Sheridan at one place or the other.

Q. In other words you got hold of Mr. Sheridan and then you talked to Mr. Grimsley?

A. I did not say that.

Mr. Neal: Your Honor, this is badgering that witness. That witness has answered. He has answered to the satisfaction of surely everybody but Mr. Berke and Mr. Berke then whops it around and comes back another way.

Mr. Berke: If Your Honor please, we object to counsel's remarks on that. The Court has already instructed counsel not to remark on the evidence.

The Court: Let's proceed, gentlemen.

By Mr. Berke:

Q. Did you personally talk to Mr. Grimsley in person now at any time after you talked to Mr. Hoffa and before the Hoffa case started?

A. Any time afterwards? Up until today? Prior to [fol. 3574] getting there or when?

Q. I asked you and I am trying to make it as simple as I can, from the time you decided to go to Nashville or were

invited to go to Nashville up until you arrived in Nashville, did you personally, in person, talk to Mr. Grimsley?

A. He would have had to have been to the airport. I don't think so. Because he would have been to have been at the airport.

Q. All right, did you tell Mr. Grimsley at any time before you went to Nashville that you would be an informer or you would give information or you would report to some government man or give him something on Mr. Hoffa?

A. I don't call it informing, sir.

Q. I can't hear that.

A. I said I don't call it informing as you do.

Q. All right, what do you call it if you don't call it informing?

A. I would call it a fight for your life with Mr. Hoffa.

Q. You were fighting for your life then, weren't you?

A. I would think so from reading some of the things that he has done.

Q. And you were pitching your life against Mr. Hoffa's life, weren't you?

[fol. 3575] A. No, sir, I can answer that but I can't here.

Q. It was either you or Mr. Hoffa, wasn't it?

A. Definitely not. Mr. Hoffa doesn't have nothing to do with me in those connections.

Q. If you had a choice between you and Mr. Hoffa your interests would be in yourself and not Mr. Hoffa?

A. I imagine. That is human nature, sir.

Q. So you had a grievance to iron out, didn't you?

A. A what?

Q. You had a grievance against Mr. Hoffa?

A. No, sir, I didn't have a grievance against him as such, no, certainly didn't.

Q. What are all these complimentary remarks you are making about Mr. Hoffa?

A. His union principles.

Q. So you objected to it?

A. Certainly did. Taking entirely away from local unions. Running it from Washington.

Q. Did you go to Nashville to see Mr. Hoffa for your own personal benefit?

A. I think the reason I was in Nashville Mr. Hoffa wanted to see me for his own personal benefit. He had some things worrying him at the time.

Q. Did you go to Nashville for anything personal to yourself?

[fol. 3576] A. I don't think it was. I think it was to his benefit.

Q. Did you call Mr. Hoffa?

A. I certainly did.

Q. And you called him at Newark?

A. I called Washington I believe first. They told me he was at the Essex house, I believe in Newark, New Jersey.

Q. And you called up there?

A. Yes, sir.

Q. You know, of course, that Mr. Hoffa in transacting the various amount of Teamsters business that he has all over the country that the Teamsters have had numerous different trials with the government and other individuals, don't you?

A. Same as I have, sir. I agree with you.

[fol. 3577] Q. Have you ever been to Mr. Hoffa's home?

A. No, sir, I haven't.

Q. Have you ever attended any trial before this time for Mr. Hoffa?

A. Never was invited before.

Q. Did Mr. Hoffa call you and ask you to come up there?

A. No, sir, he did not. He told me when I called him back.

Q. Did you want to be invited to come up here?

A. Yes, sir. I wanted to find out why Mr. Hoffa sold me out and pulled my bond and I wanted to talk to him.

Q. So, you did have a personal matter you wanted to discuss with him?

A. Yes, I certainly did but I didn't tell him I wanted to come to Nashville.

Q. Didn't you tell the jury a while ago that you didn't have anything personal you wanted to discuss with him?

A. I did not. I told him the meeting at all times was discussions on personal matters and union matters. At all times during the meeting I have told these ladies and gentlemen that.

Q. Except when you went to conventions and district conventions and union meetings, did you ever associate with Mr. Hoffa?

[fol. 3578] A. Oh, yes, sir.

Q. Where?

A. In the presence of a fellow named Ira Davidson, who, I understand, was a gun handler or maybe a Mr. Marcellus met us at the airport. I don't know him. Leaving Baton Rouge. I met him numerous times in Washington. Baton Rouge a couple of times.

Q. Mr. Partin—

A. (Interposing) Chattanooga—

Q. (Interposing) Excuse me, go ahead. Are you through?

Q. I want you to be sure where all we met. Chattanooga. See him in Dallas.

Q. You referred to some man as a gun handler, you volunteered that information?

A. He is, yes.

Q. You are a pretty good gun handler yourself?

A. I have collected guns all my life.

Q. You have shot them?

A. Yes, sir, I have shot them.

Q. You have shot them at people?

A. No, sir.

Q. Didn't you shoot at this colored girl where you were charged with rape in that case?

A. I don't remember anything connected with that.

[fol. 3579] Q. Do you mean you don't remember anything connected about that?

A. I didn't say that. I said I don't remember anything about a gun.

Q. Didn't you admit to the sheriff that you shot but you only meant to scare this poor girl?

A. I don't think so. I think that I was—let's see—

Q. (Interposing) Didn't you tell Mr. Buffalino, the attorney there, that if you had been tried anywhere else than Mississippi you would still have been in jail?

A. I have never discussed anything with Mr. Buffalino except matters that couldn't be related to this.

The Court: Strike that question and strike the answer. It is argumentative.

By Mr. Berke:

Q. You have a tendency to want to be a federal officer, don't you?

A. I don't have any desire, sir. All I want to do is make a living for my wife and five kids.

Q. Haven't you posed as a federal officer?

A. No, sir. I am a state fire marshal and also the state police honorary badge in Louisiana but I am a deputy state fire marshal of Louisiana. I don't have to pose as one. I will be glad to show you my credentials, sir, if you would like to see them.

[fol. 3580] Q. Didn't you pose as a federal officer and go into a man's home and steal a gun which you pawned for $20 and you told him you were a federal officer?

A. I certainly don't remember that, certainly don't.

Q. Do you mean an item like that would slip your memory?

A. I certainly don't remember it.

Q. Would it help you if I gave you the date, Mr. Partin, when you did that?

A. It probably would if it happened, yes, sir.

Q. I will ask you if on April 17, 1948, around noon, if you didn't enter the home of Willie McPipe at Woodville,

Mississippi, and claimed yourself to be a federal officer and you found a pistol in McPipe's house which you took with you and subsequently pawned for $20?

A. No, sir, I don't remember that.

Q. You don't remember it?

A. No, sir, I do not.

Q. Would such an incident like that also slip your memory?

A. No, I don't think it would. I don't think so.

Q. Were you ever in Woodville, Mississippi?

The Court: Let's move along, gentlemen.

By Mr. Berke:

Q. Now, sir, when you talked to Mr. Grimsley after you [fol. 3581] talked to Mr. Hoffa, what was your agreement on arrangements?

A. Either he was supposed to meet me and give me a way to contact him or either I call him on the phone and got the phone number of Mr. Walter Sheridan.

Q. Well, now, that happened at or about the time of the trial you said it was two or three days before the trial. Why is it you can't remember that?

A. Because, sir, it is another matter that I have been instructed not to answer you mixed directly with that. There was another matter altogether that I was meeting with him for.

[fol. 3582] Q. Well, now, that matter occurred in Atlanta, Georgia, did it not?

A. Which matter?

Q. The matter you were instructed not to answer about.

A. No, sir, it did not.

The Court: Well, the Court instructed the witness in that regard.

Mr. Berke: All right.

By Mr. Berke:

Q. Were you given any instructions before you went to Nashville?

A. Yes, I was.

Q. What were the instructions?

A. If I saw any evidence of jury tampering or other illegal activities to contact Mr. Walter Sheridan and I was given his phone number.

Q. Who gave you his phone number?

A. Mr. Grimsley.

Q. When did he give it to you?

A. A day or two before I came or the same day maybe, it was so close knitted and it may have been the same day.

Q. Did you—did your Honor say something?

The Court: No.

Mr. Berke: I guess it was Mr. Hooker then, I'm sorry.

[fol. 3583] By Mr. Berke:

Q. Did you see Mr. Sheridan when you got to Nashville?

A. Yes, I did.

Q. And when did you get to Nashville?

A. The best I can remember was October 22nd when I saw him.

Q. And where did you meet him?

A. I believe it was in his car, I think, I'm pretty sure it was in his car.

Q. Now, we are getting to a time when your memory is pretty good about things, right?

A. Oh, I can remember anything that happened there if I am given an opportunity to answer correctly and think on it.

Q. All right. Now, didn't you, Mr. Partin, in an interrogation before the Judge in the absence of the jury tell us that the first time that you met Mr. Sheridan was in the lobby of the Andrew Jackson Hotel?

A. What now?

Q. Was I not speaking loud enough?

A. I didn't understand the question.

Q. Did you testify before His Honor, Judge Wilson here, on a legal matter while the jury was out?

A. I—

Q. (Interposing) And it fits in the record and I will [fol. 3584] read it to you if you want me to, that the first time that you met Mr. Sheridan was in the lobby of the Andrew Jackson Hotel?

A. Sir, I guess I didn't know this was Judge Wilson, I am sorry. I didn't testify in front of this gentleman.

Q. Is it necessary that I introduce the Court?

A. I am sorry.

Q. This is Judge Wilson.

A. I didn't even know. I didn't testify to him in regard to Grand Jury hearings, I am pretty sure I didn't testify in front of him.

Q. Now, have I asked you anything about a Grand Jury hearing?

A. I thought you mentioned it, sir.

Q. I asked you a very simple question. Didn't you testify that the first time that you met Mr. Sheridan was in the lobby of the Andrew Jackson Hotel?

A. As such on an assignment I would say that would be correct, sir, but as far as seeing him on the street, passing him, seeing him in his car, in the courtroom, or casually otherwise, yes, I probably have seen him.

Q. All right. So you say now you would see him for different reasons at different places?

A. Well, I would have to if he passed by me in the street, I wouldn't be purposely wanting to see him if he would be [fol. 3585] going to the courtroom or something.

Q. So you went up there and talked to Mr. Sheridan in the lobby of the Andrew Jackson Hotel?

A. No, sir, I didn't say I talked to Mr. Sheridan in the lobby of the Andrew Jackson Hotel.

Q. Did you see him in the lobby of the Andrew Jackson Hotel?

A. Yes, sir, that was the night he was trying to catch these police, Paternal Order of Police when they came into Nashville to help bribe the jury.

Mr. Silets: Objection, your Honor, I—

The Court: (Interposing) Sustained.

Mr. Silets: Move it be stricken and the Court withdraw a juror and declare a mistrial.

Mr. Schiffer: I join in the motion on behalf of the Defendant Parks.

Mr. Branstetter: So does the Defendant Campbell, may it please the Court.

The Court: Sustain the objection.

Mr. Branstetter: May it please the Court—

The Court: (Interposing) Disregard the question and answer.

Mr. Berke: Mr. Partin—

The Court: (Interposing) Overrule the motion.

Mr. Berke: I am sorry, your Honor.

[fol. 3586] By Mr. Berke:

Q. Mr. Partin, on October 22nd, 1962, don't you know, sir, that not a single juror had been put in the box yet?

A. I didn't say I met him, you told me I met him in the lobby, I didn't tell you that.

Q. All right. I will ask you then, did you meet Walter Sheridan the first time in the lobby of the Andrew Jackson Hotel and furnish—I am sorry, I have got to do this, but this witness calls on me to do this.

A. No, sir, I did not.

Q. You say now you did not?

A. Not the first time in the lobby, no, sir.

[fol. 3586a] Mr. Berke: All right.

The Court: Gentlemen, I believe it's time for the noon recess. Ladies and gentlemen, do not discuss the case

among yourselves or allow anyone to talk to you about it during the recess. Be back at 1:30.

The jury may be excused. Court is not adjourned.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom.)

The Marshal: Everyone please be seated, court is still in session.

The Court: All right. Now, Mr. Partin, you may be excused at this time. Do not discuss your testimony with anyone or allow anyone to talk with you during the recess for lunch about your testimony.

(Witness temporarily excused.)

The Court: Yes.

COLLOQUY BETWEEN COURT AND COUNSEL

Mr. Branstetter: May it please the Court, this witness, immediately preceding the excusing of the jury for lunch hour, blurts out matters that we think are highly prejudicial to the defendants, particularly the Defendant Campbell.

I moved for a mistrial at that point and I now move for either a mistrial or a severance and would request, if the Court sees fit to overrule those motions, that the Court instruct this witness it's obvious to at least from my view, [fol. 3587] having sat in a few courtrooms, that this witness has not answered a direct question, although it is as simple as pie to answer them, he is totally evasive and is not, will not answer a question at all, blurts out answers that he either thinks of himself or has been told to say.

The Court: All right.

Mr. Branstetter: I think it's unjust to every defendant here and I only speak for the Defendant Campbell.

Mr. Silets: Your Honor, in that same connection I think that I will have to voice an objection to the Court's per-

mitting the witness to, instead of answering a question directly by a simple yes or no, making a full and detailed explanation.

That is for rebuttal purposes, the way your Honor has limited us on cross examination.

The Court: How have I limited you, Mr. Silets?

Mr. Neal: Limited?

The Court: How has the Court limited the defendants? Do you really feel the Court has limited the defendants? Do you seriously feel that the Court has limited the defendants in the cross examination of this witness?

Mr. Silets: Yes, sir, I do.

Mr. Neal: Your Honor, in that regard I would like to point to Henerson vs. United States and Smith vs. United States, both from this circuit, which hold that the cross [fol. 3588] examination with respect to anything other than conviction for—

The Court: (Interposing) The Court has allowed the broadest possible, it seems to me, examination of the witness.

Mr. Branstetter: May it please the Court, I would agree with the Court on this one point, it may be broad, only for the Defendant Campbell as to the point involving the question dealing with prior offenses, arrests, and so forth, but each time that counsel has done that it's not been broader than the law because counsel has stated it is testing this man's credibility.

Mr. Neal: That's ridiculous.

Mr. Branstetter: It may not be ridiculous, the cases so hold.

Mr. Neal: It doesn't hold you can ask about prior acts of misconduct that have been done here to test the memory.

Mr. Schiffer: May I offer a suggestion that maybe the Court will adopt that the witness be instructed by the Court that when he gives responsive answers to stop at that point and not continue with extraneous matters. If he had the instruction from the Court possibly he would understand if it came from the Court rather than counsel.

Mr. Berke: It would shorten the examination. I am just [fol. 3589] being forced in that by rambling answers he makes.

The Court: The Court will consider giving such an instruction. There has been some questions that have been, at least the Court has had some difficulty understanding what was being referred to. It was clear in the party's mind—

Mr. Neal: (Interposing) To show how unfair this cross examination is, when the Defendant Hoffa takes the stand we are precluded about asking him from any charges but yet no man has probably had more charges.

Mr. Haggerty: Now, your Honor, I object to that.

The Court: The law is clear.

Mr. Neal: There has been charges gone into—

Mr. Haggerty: (Interposing) Just a moment. And move it be stricken from the record. Is this an alley fight or is it a courtroom?

Mr. Neal: Oh, no, I thought it was a courtroom.

Mr. Haggerty: Well, you don't show it at times.

The Court: Now, gentlemen, the Court has instructed counsel not to carry on conversations among themselves. If you have anything to say, say it to the Court and the Court will rule upon it. We are not going to have this bickering back and forth.

Mr. Schiffer: Would your Honor consider instructing the witness?

The Court: Yes, I will consider that over the lunch [fol. 3590] hour.

Mr. Alexander: Your Honor, this witness is doing the exact thing that I asked your Honor to instruct him about and that is bringing in extraneous matters to get them before the jury by saying that the Court has instructed him not to say it.

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[fol. 3592] The Court: All right. Gentlemen, the documents delivered unto the Court by the government this morning at the time of the hearing in the absence of the

jury and just prior to our recess have been examined by the Court and they are in no respects statements which would be subject to production under the Jencks Act. The Court has, therefore, sealed those documents. They will be delivered to the reporter and identified as Exhibit No. 114.

(The documents referred to above by the Court were marked Government's Exhibit No. 114 for identification only.)

The Court: May we have the witness returned to the courtroom?

(Thereupon, the Witness Partin, a witness called at the instance of the United States of America, thereupon returned into the courtroom and the following proceedings were had, to-wit:)

The Court: Mr. Partin, when we resume the examination this afternoon the Court will instruct you and request that you respond to the questions if you know the answer. If you do not know an answer, do not have an answer to the question, just indicate so. Do not carry on any colloquy between the attorney and, likewise, do not volunteer any information. I believe if you will follow those instructions we can move along with the examination and the trial [fol. 3593] of the case. As I say, respond to the question as directly as you know and as truthfully as you can. If you do not know the answer, indicate, so state.

The Witness: Yes, sir.

The Court: If you desire to make an explanation, you will certainly be permitted to make any explanation. But at the same time do not volunteer statements that are not responsive to the question.

The Witness: Yes, sir.

The Court: Listen carefully to the question and respond accordingly. May we have the jury return?

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